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1	1	07/2559/OL/E11	LAND TO THE WEST OF NORTHGATE, ALDRIDGE, WALSALL, WS9 8TL	Outline: residential development (50 dwellings per hectare)	Refuse
2	24	08/0203/FL	McCOLLS NEWSAGENT & POST OFFICE, 175 BROADWAY NORTH, WALSALL, WS1 2QB.	Proposed single storey rear extension to existing retail premises, including new shopfronts, entrance doors and installation of air conditioning units with the rear yard area, "Opening Hours 06.00 – 20.00 Monday to Saturdays & 07.00 – 13.00 Sundays"	Grant Subject to Conditions
3	36	08/0416/FL	32 NORMAN ROAD, WALSALL, WS5 3QL.	Alterations to roof shape at rear and construction of garage as liveable room.	Grant Subject to conditions
4	42	08/0191/AD	MIDDLETON GROUP, BESCOT CRESCENT, WALSALL, WS1 4DQ	Erection of 2 illuminated advert hoardings	Refuse Advert
5	50	08/0321/FL	EXOL LUBRICANTS LTD., ALL SAINTS ROAD, WEDNESBURY, WS10 9TS.	Extension to warehouse	Grant Subject to Conditions
6	57	08/0352/FL	LAND AT COLTHAM ROAD, WILLENHALL	New Respite Centre	Grant Subject to Conditions
7	66	08/0455/FL	LAND AT THORNEYCROFT PLACE/ASHTREE GROVE, MOXLEY, WV14 8LU.	Erection of 4 no. 2 bed bungalows and 6 no. 2 bed apartments, parking and access facilities, landscaping.	Grant Permission Subject to conditions and a Planning Obligation.

8	73	08/0048/FL	19 BLUE CEDAR DRIVE, STREETLY, SUTTON COLDFIELD, B74 2AE	Change existing garage to room, and construct single garage with pavement crossing	Grant Subject to conditions
9	80	07/2577/FL/H4	BARR COMMON FARM, ALDRIDGE ROAD, STREETLY, SUTTON COLDFIELD, WEST MIDLANDS, B74 3TR.	Extension to existing dwelling, to provide new elderly persons accommodation.	Refuse



ITEM NO: 1.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

**REASON FOR BRINGING TO COMMITTEE: Major Application, Departure
and Called In by Councillor John O'Hare**

Application Number: 07/2559/OL/E11
Application Type: Outline Application

Case Officer: Alison Deakin
Telephone Number: 01922
652487

Applicant: Mr David Cooke C/O CT
Planning

Agent: Mr Christopher Timothy -
CT Planning

Proposal: OUTLINE : Residential
Development (50 Dwellings Per Hectare)

Location: LAND TO THE WEST
OF NORTHGATE, ALDRIDGE,
WALSALL, WS9 8TL

Ward: Aldridge/Central & South

Expired: 20/02/2008

Recommendation Summary:
Refuse



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Background

The application has been called in by Councillor John O'Hare as the application raises important issues in relation to the release of employment land for residential use.

It was presented to your meeting of 22 April 2008 where it was reported that it had been withdrawn from the agenda and would not be determined until a later meeting.

Application and Site Details

Outline application for residential re-development of an existing industrial site on the western side of Northgate. The application seeks permission for redevelopment for residential purposes at a density of 50 dwellings per hectare, all detailed matters are reserved for subsequent approval. An indicative Master Plan has been provided that shows a mix of houses and apartments, a single vehicular access off Northgate that could form a tree lined boulevard with secondary accesses off to the north and south, retention of trees along the Northgate frontage, new perimeter blocks of buildings throughout the site and inclusion of additional landscaping. The application states that affordable housing provision is also to be included at 25% of the total number of units. The Master Plan demonstrates how the adjacent industrial sites to the south west could be developed should they become available.

The application is made on behalf of the Phoenix Consortium that comprises the three landowners of the site. The existing premises on the site are predominantly 1950's construction and comprise three parallel buildings fronting Northgate and two further buildings in the south-western corner at the rear. The principal occupier of the buildings is Cooke Brothers and its associated company Phoenix Tooling & Development Limited and the site is used predominantly for B2 General Industrial purposes. However, there is a children's day nursery in the front part of the building on the southern side of the site adjacent to Morford Road and a further industrial firm occupying the front part of the northern buildings. Buildings at the rear of these two other occupiers remain vacant. The areas surrounding the buildings on site are laid out as hardstanding and occupied for car parking or external storage purposes. There are currently three vehicular accesses into the site from Northgate.

There are industrial premises surrounding the north and west of the site, modern residential apartments in Burnsfield Way to the south west of the site, traditional two storey residential properties in Northgate and Leighswood Avenue to the south, Leighs Wood Urban Open Space and playing fields serving Leighswood Primary School directly opposite the site on Northgate. The school itself lies to the south east. The site is 500m to the north of Aldridge District Centre.

The site frontage is 147 metres and the site area 2.56 hectares.

The applicant has provided a Master Plan and Design & Access Statement, Planning Statement, Ground Investigation Report, Flood Risk Assessment, Transport Assessment and Noise Assessments in support of the application and has offered to enter into a S106 Planning Obligation to cover provision of 25% affordable housing and contributions towards education, urban open space and healthcare facilities in accordance with the Supplementary Planning Documents. They also carried out a public exhibition of the proposals in September 2007.

The applicant claims that there are material considerations that weigh in favour of releasing this core employment land for residential development including the following;

- a) *the majority of buildings within the application site are 1950's construction and are no longer capable of meeting the requirements of modern industrial and employment users, due to the limited eaves height, poor insulation, poor loading/unloading facilities, inadequate HGV access and inadequate car parking. There is also a split in floor levels of the existing premises.*
- b) *the supplied Master Plan and supporting technical reports address the relationship of the site to the remaining industrial sites and the need to establish a logical defensible boundary to the Core Employment Area,*
- c) *In spite of active marketing little interest has been shown in the vacant premises and lettings have secured very low rents around £1.50 per square foot – and for short periods only*
- d) *The site is inappropriately included in the Core Employment Area designation as no site specific survey was undertaken when the area was originally drawn up and there are modern purpose built employment buildings and land capable of being developed for industrial uses within Aldridge*
- e) *The potential to redevelop the site for employment purposes is limited due to the proximity of residential uses which would have an impact on the design, location, density and hours of use for new industrial development,*
- f) *Burley Browne have carried out an assessment of the supply and availability of industrial land in the area on behalf of the applicants that proves there is a continuing availability of alternative sites where Cooke Brothers may be able to relocate,*
- g) *The Cooke Brothers business was founded in 1872 and presently employs 60 people with David Cooke being the fourth generation of his family to hold the position as Chairman. The company, which manufactures hinges and related products, is struggling to remain profitable in the face of ever increasing overheads and competition from overseas manufacturers. Cooke Brothers wish to remain manufacturing but is restricted in its attempts to improve productivity, reduce overheads and introduce new manufacturing techniques by its present premises which are no longer suitable for the needs of the*

business by virtue of their age, layout, size, low eaves height etc. In order to secure the survival of Cooke Brothers it must relocate to more suitable premises and prefer to relocate locally retaining skills and experience of its workforce. The ability to fund this relocation and invest in improvements in productivity by the sale of the present site is critical to the ongoing survival of the business.”

The applicant has also provided a report from independent Auditors to the Phoenix 1872 Limited Group that confirms that Cooke Brothers are a viable and profitable business yet highlights the effect that the existing premises are having on profitability.

The applicant confirms that it has always been the stated intention of Cooke Brothers to use its best endeavours to relocate the business and its employees to another site within the Borough and preferably in the Aldridge area so as to maintain existing employees and suggest that this could be secured by means of a condition to this effect or by way of a Section 106 agreement in the event of a resolution to grant planning permission. They claim the Company cannot commit to another premise until it has the funds from the redevelopment of its present site and consequently the location of the new premises will be dependent upon the availability of premises at the time that the existing site is sold. They further add that as evidenced in the supporting information, there are currently premises available within the Aldridge area that would suit Cooke Brothers needs if there were available funds.

The applicants claim that the proposals are required to ensure the survival of Cooke Brothers, a local manufacturing business established in 1872 currently employing 60 people. Cooke Brothers manufacture hinges and related products for the construction, electronic furniture and automotive industries. The supporting information states the volume of their business is reducing and they are presently moving into manufacture of high quality metal goods for the top end of the market as the bulk market they used to serve has been overtaken by cheaper imported goods. In the future the bulk market is likely to be met by Cooke Brothers importing/assembling products from elsewhere and their key difficulty is that the current buildings on Northgate are obsolete for these purposes.

As an example they state that they have been unable to site a recently purchased £150,000 laser machine, for the production of specialist hinge products, in the most efficient location on site due to the low eaves heights of the buildings. They also claim as the business is spread over three buildings this leads to inefficiencies, increased costs and inability to compete in the market resulting in a decline in the business unless they are able to relocate to appropriate premises and modernise the business.

The applicants have taken advice from Ian Dove QC regarding their case. His advice concludes the following:

“Policy JP5 is not to be seen as an absolute bar to redevelopment of this site. The words of the policy itself make that absolutely plain. The real issue in respect of policy JP5 is whether the planning case in favour of moving Cooke Brothers elsewhere in order to preserve the business and the employment that goes with that business and the assistance it provides to the local economy is something which weighs sufficiently in favour of the application that it is a material consideration which displaces the normal operation of policy JP5.

It also seems relevant to the applicant and material that the planning case would lead to no net loss of employment. Of still greater significance is the likely result of failure of these application proposals in that jobs would simply be lost.

Hence, in our opinion, this is a case in which the balance of the material considerations is very strongly in the applicant’s favour. For all the reasons explained we consider that the argument would most likely be resolved in the applicant’s favour if it were necessary to bring the matter before the Secretary of State.”

A full copy of this advice is appended to the Committee report.

Further representations have been received from the applicant relating to the content of the earlier report withdrawn from the Committee Agenda on 22 April 2008. Their comments are shown below with the officer’s response in italics:

1. Apparent failure to take into account Counsel’s opinion. *The opinion of Ian Dove QC was submitted after the original report had been published and was to have been included in a Supplementary Paper for 22 April Committee. However, this opinion has now been appended in full and is referred to in the course of the report.*
2. Failure of the earlier report to highlight that the applicant’s are willing to accommodate 25% affordable housing on site and provide contributions towards education, urban open space and healthcare facilities in accordance with the Supplementary Planning Documents and that their solicitors have prepared a draft agreement for approval. *The original report clarified the applicant’s willingness to enter into a Section 106 Agreement in all relevant parts of the report.*
3. The report casts doubt as to whether or not the site can support a development of 50 dwellings per hectare. The site description was amended to a development of “up to 50 dwellings per hectare” in November 2007 and it is disappointing that no opportunity to address the third recommended reason for refusal has been given. It is noted that there were no objections reported in the earlier report and it is considered that these matters could be addressed by way of

conditions. *The proposed description of development is as requested by the applicant in November 2007 i.e. "Residential Development (50 dwellings per hectare – Outline). Notwithstanding that the applicant has suggested conditions to address eventual layout and separation distances without a detailed layout to consider the applicant has not demonstrated that the development site can support a density of 50 dwellings per hectare. In the event that permission was granted for a density of 50 dwellings per hectare in the absence of any indicative layout this could result in a compromised layout at reserved matters stage depending on the eventual site constraints.*

4. Misleading report relating to 3 letters of objection when there are in fact only two objections. *Two letters received from one party – this has been corrected in the report. Also claims that the adjacent occupier has not stated that he is unwilling to re-develop his site for residential purposes at some point in the future. The letter of objection does state that "our clients declined an approach by the applicant's regarding a comprehensive redevelopment of their combined ownerships, prior to submission of this application. In view of the above, our clients are obliged to object to the application as it would adversely affect their continued industrial operations and the local businesses which will occupy these units."*

5. The report is dismissive as to the length the applicants have sought to address the existence of industrial premises on adjacent land, and residential and industrial uses can co-exist side by side successfully. *However, the applicant's own submission points to problems between residents of new housing developments and industry in the area as they state "it was evident from discussions held with Walsall MBC that there have been occasional complaints from occupiers in Leighswood Avenue and Burnfields Way/Lingmoor Grove in respect of noise and disturbance resulting from industrial activity carried on from adjacent sites". (Paragraph 3.8 of the applicant's planning statement).*

6. Disputes the officer's view that PPS3 places more restrictions about releasing existing and former industrial sites than its predecessor in PPG3. *Officers consider that there is a significant difference between paragraph 42A of PPG3 as inserted into the guidance in January 2005 and paragraph 44 of PPS3 which came into effect in April 2007. The applicants also claim that no review of employment land has been undertaken since the preparation of the UDP. In fact an Employment Land Review was carried out by GVA Grimley to support the emerging Black Country Joint Core Strategy Preferred Option and published in April 2008. It revealed that the loss of supply of B2/B8 land to 2026 will be greater than the overall decline in demand. This will therefore place pressure on retained employment land to accommodate this. Those consultants state that in Walsall overall industrial needs appear capable at this stage of being met with ease. However, certain changes*

in employee densities may not occur as fast as expected. Furthermore, there are likely to be significant time lags associated with upgrading lower quality employment land to higher quality. It is therefore wise to take a cautious view of the balance of employment land demand and supply. In this context the ODPM Employment Land Review Guidance paragraph 4.30 is highly relevant. It states that sites which are apparently unsustainable but strategically important should be left in the frame for more detailed appraisal. The Black Country Joint Core Strategy work was based on a site survey but the Joint Core Strategy itself is not site specific. Under the LDF process more detailed technical work will support the Land Allocations Document. This is programmed to be adopted in 2012. In the meantime there is ample capacity available for housing to meet RSS projections.

7. The applicant states that the RSS Housing figures for Walsall are expressed as minima and are therefore incapable of being satisfied. *In fact policy UR1B of the RSS states that Local Authorities should work towards the balanced development of both housing and employment uses. This is what is being done through the Black Country Joint Core Strategy.*
8. The applicants stated that the earlier report referred to a site at Leamore Lane (06/1118/FL/W2) as an isolated example of residential development being granted within a core employment area but that officers have recommended approval of an application for residential development at land at Miner Street (08/0163/OL) which is also in a core employment area. *However, the report was commenting on the examples brought by the applicant in their planning statement at that time. In the case of Miner Street, the site was separate from the remainder of the core employment area as with Leamore Lane but unlike the present site. The Miner Street application has been deferred.*

Relevant Planning History

07/1086/ND/E10 – Screening Opinion to ascertain if an Environmental Assessment is required - Proposed Residential Development – Deemed decision that an EIA is not required.

07/2750/FL/E6 – Change of Use to B8 (Storage & Distribution) Purposes on Land and premises to the north-west side of Morford Road (formerly Aldridge Plastics) – Granted subject to conditions 3/4/08. This permits the continued employment use of the adjacent site.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)

Unitary Development Plan

2.2, 2.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided, to strengthen and diversify the economy of the Borough and promote economic revitalisation.

GP3: planning obligations will be used, as appropriate, to secure the provision of any on or off site infrastructure, facilities, services or mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses and to revitalise the local economy and safeguard jobs.

ENV14: encourages the development of derelict and previously developed land.

ENV17, ENV18, 3.64: encourages new planting as part of landscape design and seeks to protect existing vegetation.

ENV23: Proposals must take account of opportunities for nature conservation

ENV24: New development which would sever or unacceptably harm the integrity of a wildlife corridor will not be permitted.

ENV40: The Council will take account of flood risk according to the principles set out in PPG25: Development and Flood Risk.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted, particularly in locations such as visually prominent sites. Designing out crime' through design, layout, landscaping and boundary treatments.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

4.4 & JP5: Core Employment Areas are locations of strategic importance and will be safeguarded for core employment uses. Proposals for other uses will only be permitted where; a need would be met which could not be satisfied elsewhere in the Borough or, the range and quality of employment opportunities would be significantly increased.

6.3 & H3: Encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

6.25 & 6.30 refers to windfall sites that come forward for redevelopment other than as development plan allocations.

H9: net density of residential development should be at least 30 dwellings per hectare. Densities exceeding 50 dwellings per hectare will be encouraged on sites located at major transport corridors.

8.8: states that residential developments will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities a financial contribution to the costs of providing these facilities will be required.

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these.

Residential developments will be required to make financial or other contributions, which will enable the provision of new, or the improvement of existing urban open spaces.

7.5, 7.52 and 7.36, PPG13: parking policies should be used to promote sustainable transport choices and reduce the reliance on the car by improving public transport.

T7: states that all development should satisfy the car parking standards set out in Policy T13.

T12: for residential developments the walking distance should be no more than 400 metres to a bus stop.

T13: car parking standards

1, 2 & 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

Flats with communal parking 1.5 spaces per unit

Supplementary Planning Document “Designing Walsall” (February 2008)

Aims to promote a high quality environment and high standards of urban and landscape design throughout the Borough and identifies the basis on which the design of buildings and spaces will be considered during the development control process. It identifies eight key urban design principles for consideration including sustainability, safe and welcoming places, character, continuity, ease of movement, legibility, diversity and adaptability. Local Character Guidance is also included, plus Public Art Guidelines and Numerical Guidelines for Residential Development. The latter identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Supplementary Planning Document for Urban Open Spaces

Identifies the requisite local standards and contributions that developers will be required to make towards provision and improvement of open spaces.

Supplementary Planning Document for Education

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities.

Supplementary Planning Document for Affordable Housing

Guides delivery of affordable housing to appropriate locations in the Borough and provides for balanced, mixed communities.

Supplementary Planning Document for Healthcare

Seeks to provide adequate healthcare facilities and sets out requirements for contributions from potential developers.

Regional Spatial Strategy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. It forms part of the development plan, and was revised and republished on 15th January 2008 to reflect the Partial Review Phase 1, applying to the Black Country. Policy PA6 seeks to provide and maintain a range of readily available employment sites to meet the needs of the regional economy. Paragraph 46b states the release of former employment sites for housing will only be considered where significant employment land of appropriate type and quality remains. The Strategy recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. Overall the strategy promotes sustainable regeneration of previously developed land, a high quality environment and sustainable development capable of being accessed by a variety of transport modes. It contains a policy relating to the maintenance of a portfolio of employment land (PA6) and one that deals with housing and employment land (UR1B).

National Policy

PPS1 Delivering Sustainable Development – Emphasises the need to reject poor design and the need for sustainable development.

PPS3 Housing - Promotes sustainable development and the efficient use of previously developed land. It promotes the need for well designed new housing developments. Consideration of design and layout must be formed by the wider context. Paragraph 60 requires Local Authorities to ensure there is a continuous five year supply of sites for housing and monitor the supply of deliverable sites on an annual basis

PPG4 Industrial & Commercial Development and Small Firms - seeks to take account of the locational demands of business.

PPS9 Biodiversity & Geological Conservation – seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology and contribute to rural renewal and urban renaissance.

PPG13 Transport - Promotes sustainable patterns of development, which reduce the need to travel, especially by car.

Other relevant policy guidance includes PPS23 Planning and Pollution Control, PPS24 Planning and Noise, PPS25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention; and the 2004 Employment Land Review Guidance Note.

Consultations

Transportation – No objections in principle to outline proposals for residential development but it appears that a Walsall MBC refuse vehicle would not be able to manoeuvre throughout the site due to lack of sufficient turning heads.

Pollution Control (Contaminated Land) – No objections subject to conditions to ensure investigation and remediation of any localised ground contamination and ground gas issues due to various industrial uses formerly located on the application site.

Pollution Control (Scientific Team) – No objections subject to a condition for suitable noise mitigation measures to protect internal and external areas as outlined in the addendum to the Hoare Lea report.

Environmental Health – No objections.

Strategic Policy – Objects. The proposals are contrary to Policy JP5 (a) (i) and (ii) which safeguards the land for core employment uses. The applicants have not demonstrated that the need for housing could not be met elsewhere in the Borough and housing is not an employment generating use therefore the range and quality of employment opportunities would not be significantly increased by the proposed development.

A new paragraph 46b inserted into the RSS in January 2008, with specific reference to the Black Country Boroughs, underwrites this approach. It states that 'the release of former employment sites for housing will only be considered where significant employment land of appropriate type and quality remains'. Walsall (not simply Aldridge) has a shortage of good quality employment land and the best it has to offer is concentrated in its Core Employment Areas.

It is noted that the site owner's intention is to relocate elsewhere. Connected with this, the applicant cites apparent lack of interest in the site as it exists from the industrial market, as evidence to support the application to release the site for housing. However, PPS3, the national housing planning guidance which came into effect in April 2007, is more restrictive about the release of existing and former industrial sites than its predecessor, which was in operation during the initial stages of the preparation of this application.

PPS3's paragraph 44 refers to the 2004 ODPM Employment Land Reviews Guidance Note. Paragraph 4.40 of this note states that 'strategic planning factors, for example where the site is key to delivering economic development objectives or indeed forms part of a wider regeneration proposal, may support the retention of an apparently unsustainable site'. This site, being part of a designated Core Employment Area, is a case in point. Furthermore, allowing the encroachment of housing into the Core Employment Area would potentially constrain the operation of remaining industry and perhaps result in opposition to its activities on the part of the new residents, as has happened

elsewhere in the Borough. This is not in the interests of wider efforts to regenerate Walsall.

At paragraph 60 of PPS3 it states that Local Authorities should ensure there is a continuous five year supply of sites for housing and monitor the supply of deliverable sites on an annual basis. In 2007 the Council had a housing land supply of 8.1 years which exceeds the requirements of PPS3. The evidence base for the Black Country Joint Core Strategy preferred option (currently out to consultation) also shows that there is sufficient land across the Black Country for housing needs up to 2026. In conclusion therefore there is no requirement to develop the application site for housing.

Economic Regeneration – Objects. The Council is struggling to identify good quality employment land opportunities for several companies it is currently supporting that are looking to relocate either within, or into, the borough. From an economic perspective, the loss of additional Core Employment Land for residential development can only exacerbate present tensions and jeopardise further employment opportunities within the borough. A more proactive approach to bringing poorly utilised employment land back into use is being explored and in this context the existing portfolio of Core Employment Land should be retained.

Landscape – In principle welcome the retention of frontage planting along Northgate. However, the illustrative drawings do raise concerns regarding the practicalities of providing a “pocket park” and “linear grand boulevard with children’s play area” in a corridor only 20m wide and concerns as to whether there is adequate space allowed to create a buffer between new residential and existing industrial uses.

Urban Design – No objections to the principle of residential development but have reservations regarding the indicative house types and designation of the boulevard as a “multi functional public open space”.

Environment Agency – Objects. The supplied Flood Risk Assessment fails to investigate the flood risk from the nearby watercourse and the existing surface water sewer system in Northgate in sufficient detail to support the conclusions that the site is in an area of low flood risk.

Education Walsall – Require a contribution towards both primary and secondary education in accordance with the Supplementary Planning Document on Education.

Strategic Housing – No objections but 25% affordable housing should be provided on site. This should be split 50/50 by social rent and shared ownership. The affordable housing should be split across all property sizes, however, 1 bed units are not required either for affordable or open market sale.

Police Architectural Liaison Officer – No comment as information is not provided at this stage in relation to security at the site.

West Midlands Fire Service – Fire service access will be satisfactory providing full plans application show compliance with Building Regulations, Approved Document B, Section B5.

Centro – No objections. The site is within accessibility standards, and is served by a large number of bus services, that run along Northgate and Leighswood Avenue, that link the site to Walsall and Birmingham. The developer should ensure that any pedestrian links to bus services are direct, convenient, well lit and of safe and secure design. A Residential Travel Plan is also required.

National Grid – No objections.

Public Participation Response

Two letters of objection have been received which are summarised below:

- Concerns that the proposals may adversely affect adjoining businesses by virtue of potential complaints from future occupiers in relation to noise and vibration, use of heavy power presses and machinery, unrestricted hours of operation, deliveries/collection via articulated vehicles and associated workings of the adjacent factory
- Potential security issues
- Potential conflict between existing unrestricted industrial operations at premises in Morford Road and proposed new residential housing
- The application includes references to potential future residential development on adjacent industrial land (comprising premises in Morford Road recently vacated by Aldridge Plastics) whereas the owners of this land claim they have declined an approach by the applicants regarding a comprehensive redevelopment of their combined ownerships prior to submission of the application.

All letters of representation are available for inspection upon publication of this Committee report.

Determining Issues

- Loss of Core Employment Land
- Principle of Residential Development
- Impact on Neighbouring Properties
- Other matters relating to the applicant's case
- Layout and Design
- Education/Urban Open Space/Healthcare/Affordable Housing provision
- Flood Risk

Observations

Loss of Core Employment Land

The proposals are for residential development within a Core Employment Area in the Unitary Development Plan. Policy JP5 states that where sites come forward for redevelopment they will normally be safeguarded for core employment uses. Proposals for other uses will only be permitted where it can be demonstrated that a need would be met which could not be satisfied elsewhere in the Borough, or where the range and quality of employment opportunities would be significantly increased.

In this case, residential development fails these two policy tests. Firstly, it does not provide employment and secondly, there is no need to use the site for housing, which can be satisfied elsewhere in the Borough.

In accordance with PPS3 the Council is now required to carry out and publish in its Annual Monitoring Report an annual review of its housing land supply to ensure a five-year supply of deliverable sites. Walsall has more than enough land to satisfy this requirement and indeed is likely to have a five-year supply until 2016, even when measured against the RSS Phase Two Revision. In approving the Walsall Local Development Scheme, Government Office for the West Midlands has accepted this position. There is therefore no defined need for further residential development on core employment areas, and although the Council supports good design, affordable homes and sustainable homes this should not be at the expense of its core employment sites.

The opportunity to use brownfield sites for housing must be balanced against the need to retain the land for other uses, notably employment. If sufficient land is not retained for employment within the urban area there may be increased pressure for decentralisation of these uses to peripheral greenfield sites outside the Major Urban Areas. It is therefore considered that as there is an overriding need for the land and buildings to be retained for future employment capacity, given the core employment area designation residential development should not be supported.

The rationale behind the creation of Core Employment Areas was to provide and safeguard a critical mass of industrial capacity that could serve as the basis for attracting modern industry, to move beyond a fragmented approach. It is therefore important to see the site in its overall context, and how it could perform as part of a larger industrial area. If housing were to be allowed on the proposed site it would fragment the industrial premises to the south, and act against this overall approach.

For these reasons, the proposals are therefore contrary to Policy JP5.

Principle of Residential Development

In accordance with PPS3 the Council is now required to carry out and publish in its Annual Monitoring Report an annual review of its housing land supply to ensure a five-year supply of deliverable sites. Walsall has more than enough land to satisfy this requirement and is likely to have a five-year supply until 2016. In approving the Walsall Local Development Scheme, Government Office for the West Midlands has accepted this position. Consequently, Walsall has no need for more housing land in the short term.

At April 2007 Walsall has more than enough land available to meet the 5-year supply requirement in PPS 3, even when measured against the most ambitious option being considered for the RSS Phase Two Revision. The current Unitary Development Plan provides for a 12 year supply of housing without the need to redevelop employment areas. There is no defined need therefore for further residential development, particularly on core employment areas, and although the Council supports good design, affordable homes and sustainable homes this should compliment and not be at the expense of its core employment sites.

Impact on Neighbouring Properties

There is the potential for residential development on part of the Core Employment Area to constrain the activities of surrounding industrial uses to the north and south of the site. In this context, PPG4 paragraph 18 states that planning authorities 'should carefully consider whether particular proposals for new development may be incompatible with existing industrial and commercial activities. The juxtaposition of incompatible uses can cause problems for the occupiers both of the new and the existing development. For example, where residential development is proposed in the vicinity of existing industrial uses, the expectations of the residents may exceed the standards applied by the planning authority, and may give rise to pressure to curtail the industrial use'.

The Master Plan seeks to demonstrate how the site could be developed in a manner that provides separation between the proposed new dwellings and existing industrial units surrounding the site to reduce the potential for noise and disturbance from surrounding industrial uses to adversely affect the living conditions of potential occupiers. The Plan also indicates a 3m high close boarded acoustic fence along the northern and southern site boundaries and shows dwellings nearest to these boundaries could be developed so that there are only non-habitable rooms nearest to the boundary (for example gable walls). A noise assessment has been prepared that concludes the noise climate for the site could be controlled by use of appropriate mitigation to achieve BS8233 "good" criteria for dwellings at all times of the day or night. Pollution Control are satisfied that these are adequate measures to protect residential amenity.

The owners of the adjacent industrial premises on Morford Rd (recently vacated by Aldridge Plastics) which is also in the Core Employment Area state that they have declined an approach by the applicants regarding comprehensive redevelopment of their combined ownerships, prior to submission of this application. Planning permission has also recently been granted for change of use of the existing units immediately adjoining the application site boundary to Class B8 Storage & Distribution (07/2750/FL/E6). It is therefore likely that these employment uses will continue for the foreseeable future. But, if housing were to be allowed on the proposed site, this would mean that the industry on Morford Rd would be surrounded by housing.

Even though the application includes mitigation measures against potential noise and disturbance from the adjacent industrial premises, in the absence of any indicative layout plan it is uncertain whether there is sufficient space and separation between uses to accommodate the proposed measures and still achieve a density of 50 dwellings per hectare. Also, if there is insufficient space to achieve sufficient mitigation measures the proposals may constrain industrial activities of the adjacent site for its allocated use as future occupiers of the proposed residential development could still object to operations carried out on the adjacent sites. There is a risk that, due to pressure from residents, the neighbouring industry might eventually be forced to go elsewhere. The applicants acknowledge that there have already been complaints to from occupiers in Burnfields Way and Lingmoor Grove in respect of noise and disturbance resulting from industrial activities carried on at adjacent sites.

The applicants have indicated mitigation measures they are prepared to undertake to prevent a similar situation arising in respect of the application site. This is assuming there is sufficient space to accommodate the measures and still achieve 50 dwellings per hectare. Pollution Control have not objected to the proposed mitigation measures. However, the construction of an acoustic fence along the boundary will nevertheless be an obtrusive visual barrier detrimental to the outlook of proposed dwellings similar to the present relationship between the existing industrial premises and new apartments in Burnsfield Way.

The proposal could perpetuate the problem of conflict between residential and employment uses rather than solving it, and risk a further outflow of industry, contrary to the Unitary Development Plan policy aim to boost jobs and prosperity in the Borough (paragraph 4.17) and policy H3 because residential development could constrain the development of adjacent sites for other intended purposes. The proposals are also contrary to policies GP2, GP7, ENV32 and H10 of the UDP

Other matters relating to the applicant's case

Viability

Points (a), (c) and (f) of the applicant's case deal with viability issues. It is recognised that there are current difficulties with marketing the site. However, the Employment Land Reviews Guidance Note states in its paragraph 4.30 that strategic planning factors may support the retention of apparently unsustainable sites which nevertheless form part of a wider regeneration proposal, pending further, more detailed review. In Walsall's case, such a review would be carried out as part of the Site Allocations Development Plan Document (DPD), as part of the LDF process.

Core Employment Area

Point (b) of the applicant's case is that the release of the site would establish a defensible boundary of the Core Employment Area. However, given the industrial premises which lie immediately to the south, the Council's view is that the proposal would clearly fragment the Core Employment Area to its detriment. Point (d) suggests that the site is inappropriately included in the Core Employment Area. However the issue of Core Employment Areas was debated at length at the Unitary Development Plan Inquiry, there were no objections to its boundary in this area and the boundary is now fixed for the purposes of the Development Plan, until such time as the Site Allocations Development Plan Document is adopted. This will provide the certainty that industry needs.

Neighbouring Residential Uses

Point (e) of the applicant's case stating that the proximity of the residential uses would have an impact of the design, location, density and hours of use for new industrial development would appear to acknowledge the difficulties caused by the siting of housing close to industry – for example at Morford Road.

Retaining Employment in the Area

In relation to Point (g), the applicants claim that it is of the utmost importance to the future of Cooke Brothers that they relocate to new premises. This application is a catalyst to that move, as without a move the business will be left with out of date and inadequate premises at the site and probably no Cooke Brothers to support the employment in the area. They have also expressed a desire to stay within the Aldridge Area to retain employment within the area and suggest that in order to ensure their relocation within the Borough the Council could secure a conditional permission or clause in a S106 Planning Obligation.

It is agreed that the need to safeguard jobs is an important consideration in relation to this proposal. The applicant has carried out thorough research and provided significant justification as to why the circumstances of the Cooke Brothers site should be considered a special case and support given for allowing redevelopment of the Northgate site. The Council's economic

development department has been working with Cooke Brothers to help them find premises and examine the potential for grant funding.

Nevertheless, it is important to recognise the following points: first, planning policy should not favour the interests of one company over another. Second, the potential impact on jobs caused by refusal of the application has to be weighed against the risk of allowing residential development next to other jobs in neighbouring industrial activities, as referred to in PPG4. Thirdly, the employment protection policies as set out in the Unitary Development Plan are needed in order to enable firms such as Cooke Brothers to move to more appropriate premises in the first place. If housing were to be allowed in Core Employment Areas on a piecemeal basis, there would be a far greater likelihood that companies would have to move away from an area that is dependant on manufacturing industry to sustain its economy.

Notwithstanding the particular circumstances of the applicant the proposals nevertheless result in a loss of core employment land and for the reasons stated above it is considered that the proposals may prejudice surrounding industrial occupiers. Although the applicant state their intention is to remain within the Borough there is also no guarantee at this stage that Cooke Brothers would be able to remain within the Borough to maintain alternative employment opportunities should their current core employment site be lost to housing. On balance it is considered that the proposals would have an adverse impact on employment opportunities within the Northgate Core Employment Area contrary to policies 4.4, JP5, the RSS and PPG4.

The applicant also claims that since the proposals were first discussed at the Council's Development Team in August 2005 they have invested much time and resources in preparing supporting information and technical reports to accompany the current application and that this has progressed over a period of time in consultation with officers.

They also argue that during the period within which Cooke Brothers have been developing and preparing the supporting information to accompany the current application the Council has approved planning applications for residential development on other core employment land, for example on land off Leamore Lane (06/1118/FL/W2 – granted June 2007). Permission has also been granted for major residential development on other employment areas throughout the Borough, for example Land off Bridle Lane, Streetly (07/1617/FL/E11) and former William Bird Sawmill, Lichfield Road, Rushall (07/0145/FL/E11). These examples are referred to in the applicant's submission, in the introduction to this report and also in the advice of Ian Dove QC as instances where the Council has released employment land for residential development. However, with one exception – the case of Leamore – these have not been on Core Employment Land and have been determined in the context of planning policy at the time which framed a less restrictive approach. Housing at Leamore was allowed because of the physical separation of the site from the rest of the Core Employment Area, unlike the

present case. Nevertheless, it is acknowledged that these decisions have resulted in the loss of employment land.

Residential development of other employment sites (i.e. not Core Employment Areas) reinforces the need to protect the best quality Core Employment Areas from redevelopment for residential purposes in order to maintain a supply of employment land throughout the Borough. There has also been a recent shift change in policy that places more emphasis on the need to protect Core Employment Areas from residential development. For example PPS3 which came in to force in April 2007 places more restrictions on releasing existing and former industrial sites than its predecessor PPG3. Moreover the Employment Land Review Guidance is also relevant. Paragraph 4.30 states *“strategic planning factors, for example where a site is key to delivering economic development objective or indeed forms part of a wider regeneration proposal, may support the retention of an apparently unsustainable site”*. As the site is within a Core Employment Area this policy therefore applies. Redevelopment of the application site for residential purposes is not in the interests of wider efforts to regenerate Walsall and is contrary to JP5 and PPS3. It is regrettable that the timing of the submission of the current application comes at a point when this greater emphasis is being placed on retaining Core Employment Areas but if the application were approved contrary to policy JP5, the RSS and PPG3 it would set a precedent for further encroachment of residential development within this key Core Employment Area.

In response to this the applicant has confirmed that it has always been the stated intention of Cooke Brothers to relocate the business and its employees to another site within the Borough so as to maintain existing employees and suggest this could be secured by means of a condition or a Section 106 Agreement in the event of a resolution to grant planning permission. They also claim the Company cannot commit to another premise until it has the funds from the redevelopment of its present site and consequently the location of the new premises will be dependent upon the availability of premises at the time that the existing site is sold. They further add that there are currently premises available within the Aldridge area that would suit Cooke Brothers needs if there were available funds. An independent auditor's report has been provided that shows the financial viability of the existing business over the period 2006-2007 as having growing net assets of almost £2.5 million and net profits of £57,900.

However, the means of securing the continued employment opportunities within the Borough is unsure. There can be no guarantees that once Cooke Brothers has moved to an alternative site and the core employment land has been lost to residential development, that the business would successfully maintain the employment provision relied upon to make the planning decision. No condition or Section 106 Agreement can add any certainty to this issue.

Layout and Design

The indicative layout within the Master Plan shows a built frontage along Northgate set behind a belt of existing trees, a single vehicular access into the site flanked by two gateway buildings and leading into the site to create a tree lined boulevard with development fronting the access and a woodland feature as an end stop. Secondary roads lead off this main access to the north and south. Perimeter blocks of housing and apartments are shown throughout the site. The indicative layout shows the central boulevard in the centre of the site as a multi-functional public open space.

Policy H3 encourages provision of additional housing through re-use of previously developed windfall sites provided that a satisfactory residential environment can be achieved. However, as the application is in outline form only, the supplied Master Plan layout fails to demonstrate that a satisfactory residential environment can be achieved in terms of design and layout and privacy and amenity standards. For example it is not possible to determine whether adequate separation between existing and proposed residential properties and adjacent industrial users can be maintained in order to protect neighbouring amenities or to determine whether there is sufficient space within the site to support development of 50 dwellings per hectare and still achieve the appropriate design and access standards such as highway design, space and separation, levels of amenity space and urban design. The proposals are therefore contrary to policies GP2, GP7, ENV32, H10, T7 and T13 and Designing a Better Walsall Supplementary Planning Document.

Consultation responses have highlighted concerns in respect of the relationship between buildings and public spaces, apparent lack of space to create adequate vehicle turning heads or manoeuvring space, adequate landscaped buffers between residential and industrial properties etc.

Education/Urban Open Space/Healthcare/Affordable Housing provision

Under the requirements of policies GP3, 8.8, LC1, 8.9 and H4 of the UDP and Supplementary Planning Documents on Education, Urban Open Space, Healthcare and Affordable Housing the development would attract the need for a S106 Agreement to cover Education (contribution towards primary and secondary school provision) Urban Open Space, Healthcare and Affordable Housing (25% on site provision to comprise 50/50 split between social rent and shared ownership spread across all property sizes on units yet to be determined but to be spread throughout the site) in accordance with the thresholds and criteria specified in the relevant supplementary planning documents. The applicants have agreed to enter into a Section 106 Planning Obligation in relation to these matters and have indicated that they are willing to accommodate 25% affordable housing on site. Were the application being recommended for approval the applicant's willingness to enter into a Section 106 Agreement to cover these matters would accord with the requirements of the Unitary Development Plan policies and Supplementary Planning Documents. However, in light of the recommendation for refusal the proposals

do not make adequate provisions for the above and this is a recommended refusal reason.

Flood Risk

The Environment Agency has objected to the proposals on the basis that the supplied Flood Risk Assessment fails to investigate flood risk from the nearby watercourse and the existing surface water sewer system in Northgate in sufficient detail to support the conclusions that the site is in an area of low flood risk as it appears to be based on a desk top study. They state that it also relies on determining flood risk from the Environment Agency floodplain maps which is incorrect as these are indicative only and do not include all watercourse systems. There is an unnamed watercourse to the east of Northgate that enters into a culvert beneath the road which is protected by a grille. No assessment has been undertaken of this system to demonstrate it can successfully convey the 1 in 100 year flood flow should the culvert become blocked and no details provided as to where the culvert runs which could have spatial constraints on any proposed layout. Also no detailed investigation has been made of the local drainage system and the risk posed by this surcharging during a worse case 1 in 100 year storm event. The existing surface water drainage system on the site should also be investigated in full and existing discharges from the site for a range of worse case storm events calculated and presented within the report. This will inform the developer as to how much storage on site, including Sustainable Drainage System techniques, would be required as these features may have a spatial impact on the proposed development layout.

The applicant has been made aware of this objection and is seeking to address it.

Conclusion

The application requires a balanced judgement of the determining factors to weigh up the loss of core employment land versus the principle of residential development and the potential impact this may have on the operations of adjacent employment uses and segregation of the Morford Road site from the remainder of the Core Employment Area. Other factors include whether the applicant has demonstrated that a satisfactory layout and design can be achieved at the suggested density of 50 dwellings per hectare and whether satisfactory provision for education, healthcare, urban open space and affordable housing can be made. Despite the circumstances of the applicant it is considered that the proposals are unable to outweigh the strong policy presumption against the release of Core Employment Land. However, if Committee are minded to approve the proposal, this would be a departure from the Unitary Development Plan and the application would need to be referred to the Secretary of State for consideration.

Committee should be satisfied that any decision to relax policy is directly related to the special circumstances of this case in recognition of the need to maintain employment uses so as not to undermine the successful application of policy at other sites in the future and to enable the Council to resist inappropriate development in the future.

Recommendation: Refuse

1. The proposed development is contrary to Development Plan policy JP5, (a) (i) in that there is no need for housing on this site; and JP5(a) (ii) in that it would result in the loss of employment land and fragment the Core Employment Area at a time when there is a need to safeguard and improve the critical mass of industrial capacity in the Borough. Furthermore the development would conflict with the paragraphs 2.1 and 4.7 and Policy GP1(c) of the Unitary Development Plan and aims for regeneration of the Borough.

2. The proposal will have an adverse effect on the functioning of the Core Employment Area as it would result in the severance of the approved B8 (Storage & Distribution) use on the adjacent site off Morford Road to the south of the application site from the remainder of the Core Employment Area. In addition the proposals could have an adverse effect on the functioning of neighbouring industry in terms of the potential for future residents to curtail industrial operations to the north and south of the site. The proposal is therefore contrary to policy H3 (a) IV of the Unitary Development Plan.

3. The outline proposals fail to demonstrate whether the site can support a development of 50 dwellings per hectare whilst achieving the principles of sustainable urban design, particularly in relation to the following areas:

- providing an adequate buffer between industrial uses and proposed residential properties
- providing adequate landscaping
- highway design, parking and access standards
- space and separation between dwellings
- levels of private and shared amenity space
- secure by design principles
- sustainability

The proposals are therefore contrary to policies 2.2, 3.6, 3.7, GP2, GP7, ENV18, ENV23, 3.16, ENV32, ENV33, H3, H9, H10, 3.116, T7 and T13 of the Unitary Development Plan and policies DBW1, DBW2, DBW4, DBW5, DBW8 and DBW9 of the Supplementary Planning Document "Designing Walsall".

4. The proposed development would, in the absence of any financial contributions or other arrangements, result in unacceptable demand on limited educational capacity, accessible community healthcare facilities, affordable housing and public open space provision in the locality. As such the proposal is contrary to policies GP3, 8.8, 8.9, H4 and LC1 of Walsall Unitary

Development Plan and the Supplementary Planning Documents relating to Education, Healthcare, Urban Open Space and Affordable Housing.

5. The Flood Risk Assessment provided with the application has insufficient details in order to fully assess the impact of flood risk to the proposed development and fails to demonstrate that flood risk from the nearby watercourse and existing surface water system in Northgate can be adequately dealt with. The proposals are therefore contrary to the requirements of PPS25 Development and Flood Risk and to Policy ENV40 of Walsall Unitary Development Plan.

RE PLANNING APPLICATION NO. 07/2559/0L/E11
COOKE BROTHERS LTD
SITE AT NORTHGATE, ALDRIDGE

OPINION

1. Cooke Brothers occupy a site some 500 metres north of Aldridge town centre. The site is used for the manufacture of hinges and related products. Adjacent to and on each side of Cooke Brothers' site are similar types of employment uses and those pieces of land are also within the ownership of Cooke Brothers or related holdings.
2. After a period of consultation with Walsall Metropolitan Borough Council, commencing during 2005, a planning application was submitted for the redevelopment of the site for residential use. The site is subject to a policy in the UDP, namely Policy JP5 which restricts the use of the land to employment uses. The council's strategy team has been consulted on the planning application and has made a strong recommendation that the application be refused because the proposal is in conflict with Policy JP5.
3. We are asked to advise on the prospects of successful appeal of any refusal by the Borough Council on the basis of JP5.

MERITS OF THE PROPOSAL

4. The proposal is supported by many studies and reports which deal with potential issues which could give rise to difficulty in developing the site for residential purposes. These include a study of land contamination carried out by Ground Investigation and Piling, a study of flood risk carried out by THDA Consulting Engineers, a transport assessment undertaken by David Tucker Associates, a noise assessment undertaken by Hoare Lea, a survey of protected species (in particular bats) undertaken by Land Care Associates. Moreover the application is supported by a master plan produced by RPS Group.
5. It appears that no issues which would give rise to a recommendation to refuse the application arise from any of the above studies.
6. The application was also supported by a planning statement produced by CT Planning. The planning statement explains that the application site comprises some 2.56 hectare comprising industrial buildings, predominantly of 1950's construction. These buildings are primarily used for employment purposes, principally within Class B2 – general industrial. Those areas of the site that are not covered by buildings are currently laid out as hard standing which is either used for car parking or external storage. The buildings on the site are evidently no longer suitable for the needs of Cooke Brothers' business, or indeed any modern business, by reason of their age, layout, size and low eaves height. Further, in that regard, Burley Browne have pointed out that the buildings have poor insulation and poor access for HGV vehicles. Burley Browne observe that the buildings have achieved low rental and have been vacant for long periods despite active marketing. In summary, the buildings are obsolete.
7. The planning statement explains that the application site is adjoined by residential development off Leighswood Avenue/Northgate to the south and off Burnsfield Way/Lingmore Grove to the southwest. To the east of the site there is Leighs Wood which is a public open space. That public open space adjoins a primary school; the

Leighswood Primary School. The planning statement points out that the application site is well related to public transport routes in that there are bus stops located on either side of Northgate directly adjacent to the appeal site.

8. The essence of the case for the grant of planning permission revolves around the difficulties currently experienced by Cooke Brothers in pursuing their longstanding manufacturing business. The volume of their business is reducing and they are presently moving into the manufacture of only high quality metal goods for the top end of the market. In contrast, the bulk market, which they used to serve, has been very much overtaken by cheaper imports from elsewhere in the world. Hence in the future, the bulk market is likely to be met by Cooke Brothers importing/assembling products from elsewhere. The key difficulty which is experienced by Cooke Brothers is that the buildings in which they operate are simply not suitable for their operation. By way of example they have recently expended some £150,000 on a laser machine for the production of specialist hinge products. Cooke Brothers are unable to site that laser machine in the most efficient location because of the difficulty of the eaves height of the buildings. Moreover, their business is spread between three buildings on the site and this leads to inefficiencies and increased cost and therefore an inability to compete. The information that has been provided to us makes it abundantly clear that Cooke Brothers' business will continue to decline unless it is able to relocate to appropriate premises and to modernise its business.
9. Burley Browne, in their assessment of the site, consider that redevelopment of the site for industrial and employment purposes is not a viable option. The reasons for this are twofold. Firstly, the grant of any permission for redevelopment for employment uses is bound to be constrained in order to preserve the amenity of the adjacent residential use. The residential use at Burnsfield Way is immediately adjacent to the application site and comprises three storey apartments. The second and third storeys overlook the appeal site and the environmental health officer of the council has indicated that his department is in receipt of complaints from residents

at Burnsfield Way. We are instructed that during the course of a public consultation, by means of an exhibition held locally, residents of Burnsfield Way were in support of the application proposals by reason of the potential for reduction in noise nuisance and by the possibility of the removal of the four metre high noise fence which presently exists between the Burnsfield Way development and the appeal site. Having seen the site, we can appreciate why they hold those views.

10. The second reason identified by Burley Browne for the difficulty in the redevelopment of the site for industrial purposes relates to the amount of land which would be lost in providing suitable and adequate heavy goods vehicle manoeuvring space, car parking and a buffer zone with the adjoining residential sites. Hence, in the opinion of Burley Browne, the redevelopment of the site for industrial and employment purposes is unlikely to be economic.
11. Burley Browne have also undertaken a survey of the amount of industrial/warehouse property available on the market. They have found a total floor area in the region of 42,000 m² available within the locality. In addition, they have identified some 8.3 hectares of land which is available for industrial development. We will return to this point in due course in considering Policy JP5.

DEPARTURE FROM THE DEVELOPMENT PLAN

12. The application proposal comprises a windfall site on previously developed land and buildings. Policy H3 of the UDP deals with such sites and provides that the council will encourage the provision of additional housing through the reuse of previously developed windfall sites and through the conversion of existing buildings, including vacant dwellings and the upper floors above shops and other premises provided certain criteria are met. Those criteria are set out in five points. The first criterion is that a satisfactory residential environment can be achieved; the second criterion is that there is no overriding need for the land or buildings to be retained for employment or any use. That point is clearly relevant to the provisions of Policy JP5. The third criterion is that the proposal would have good accessibility

by a choice of means of transport and be well related to schools, shops and other social and community facilities. Evidently that criterion appears to be satisfied. The fourth criterion is that residential development would not unacceptably constrain the development of any adjacent site for its allocated or identified use. We pause there to note that a noise survey has been undertaken and there has not been any adverse consultation response in that regard. The fifth point is that the proposal is acceptable in terms of the policies in the plan. Evidently that might be understood to found a refusal on the basis of Policy JP5, to which we now turn.

13. Policy JP5 deals with core employment areas, of which the appeal site comprises a part. The policy provides that these areas will be safeguarded for core employment uses, permissions for which may be subject to conditions to prohibit change to other uses. It provides that proposals for other uses will only be permitted where it can be demonstrated that two criteria are met. The first criterion is that a need would be met which could not be satisfied elsewhere in the Borough. The second criterion is that the range in quality of employment opportunities would be significantly increased. The second part of Policy JP5 deals with windfall sites or buildings in core employment areas which come forward for reuse or redevelopment. The policy provides that core employment areas will normally be safeguarded for core employment uses.
14. We note therefore that there is a policy in the UDP which protects the employment use. The policy is not one which is a blanket bar upon redevelopment of employment land. So much is quite clear from Part B of the policy which uses the word "normally". It is evident that the policy has been applied having regard to the use of the word "normally" because the adjacent site at Burnsfield Way has been redeveloped for residential purposes. Furthermore, on the 24th of April 2007 the council granted planning permission for residential uses in a core employment area called Land off Leamore Lane. Hence, in our opinion the policy is one which provides development plan policy as to what the normal outcome should be but

admits of the possibility of permission for change of use, and provides flexibility to deal with each case on its own circumstances.

15. The merits of the current application are reinforced in this case by an examination of the purpose of the policy which is clearly to retain and foster employment opportunities in the Borough. The applicants have made clear that the purpose of their application is to improve the prospects of their business and provide them with premises from which they can withstand the competition from imported goods from abroad. They have also made plain that the prospects for their business and the futures of the employees to whom they provide jobs will be prejudiced if they are not allowed to relocate into modern premises. Thus the refusal of this application would in fact frustrate the purpose of the policy on the available evidence. It cannot reasonably be said to support the objective of providing for employment opportunities in the Borough to sterilise land which is vacant and has for some time not proved attractive for redevelopment or to prevent a business from relocating and securing its financial future.
16. We note also from the consultation responses from the council strategy team that there are two other potential issues which may arise on this application. The first is that the council considers that there is no need for further housing land and the second is that housing on the appeal site may constrain the operations of industry elsewhere. So far as the first point is concerned it is not necessary for the applicant to prove a need for housing in this case either generally or specifically. There is no requirement for a proponent of residential development in PPS3 to demonstrate that there is a need for housing to justify the grant of consent. In relation to the figures for Walsall MBC in the RSS these are expressed as minima for wider strategic reasons and are therefore by definition incapable of being satisfied. The strategy of the RSS is that in the MUA the more the merrier so far as housing is concerned. In relation to the second issue we note, as we have already, that a noise report has been produced and has not attracted any objection from the environmental health department.

17. The consultation responses from the strategy team are based upon defence of the core employment area as a matter of principle. We have not seen any information which deals with employment land supply, either in core employment areas nor in other areas, which are closely related to the core employment areas. However on a site view it was plain that there were very large areas of employment land immediately adjacent to the core employment areas which, frankly, were very similar in character. We note from the consultation responses and correspondence between the council's officers and those instructing that there was no objection at the UDP inquiry to inclusion of the application site in the UDP. Interestingly, it is apparent that there was no study at all of the quality of the appeal site for employment purposes in order to support the UDP. This, it seems to us, is not an opportunity to rerun the UDP inquiry. Clearly, the site figures within the development plan and the policy applies to the appeal site. However it does seem to us to be relevant and material that there was no assessment when the UDP was examined, but such assessment as has been undertaken on behalf of the Cooke Brothers has indicated that the buildings upon the site are obsolete.

CONCLUSIONS

18. Policy JP5 is not to be seen as an absolute bar to redevelopment of this site. The words of the policy itself make that absolutely plain. The real issue in respect of Policy JP5 is whether the planning case in favour of moving Cooke Brothers elsewhere in order to preserve the business and the employment that goes with that business and the assistance it provides to the local economy is something which weighs sufficiently in favour of the application that it is a material consideration which displaces the normal operation of Policy JP5.
19. It also seems relevant to us and material that the planning case here would lead to no nett loss of employment. Of still greater significance is the likely result of failure of these application proposals in that jobs would simply be lost.

20. Hence, in our opinion, this is a case in which the balance of the material considerations is very strongly in the Applicant's favour. For all of the reasons which we have explained we consider that the argument would most likely be resolved in the Applicant's favour if it were necessary to bring the matter before the Secretary of State.
21. If there is any matter that we have not referred to and which those instructing would like further assistance they need only call.

IAN DOVE Q.C.
RICHARD KIMBLIN
No. 5 CHAMBERS
BIRMINGHAM LONDON BRISTOL
6TH OF FEBRUARY 2008



ITEM NO: 2.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 08/0203/FL
Application Type: Full application

Case Officer: Paul Hinton
Telephone Number: 01922
652420

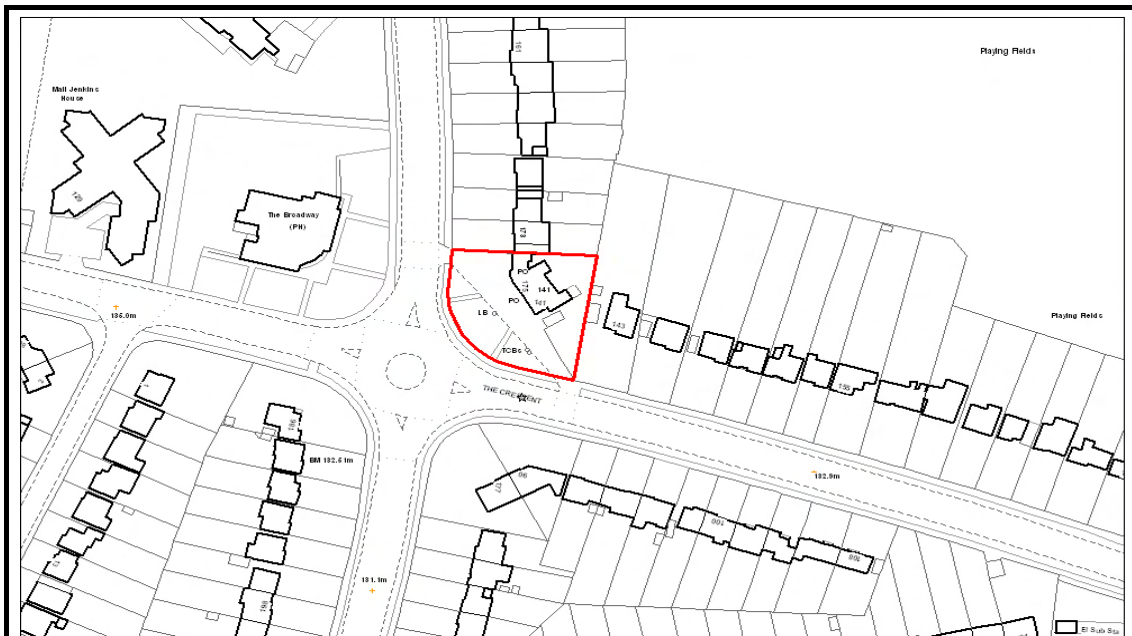
Applicant: Mr Adam France
Proposal: Proposed Single Storey rear
Extension to Existing Retail Premises,
Including New Shopfronts, Entrance
Doors and Installation of Air Conditioning
Units with the Rear yard Area, "Opening
Hours 06.00 - 20.00, Monday to
Saturdays & 07.00 - 13.00 Sundays"

Agent: Wayne Mardell
Location: McColls Newsagent &
Post Office, 175 Broadway North,
Walsall, WS1 2QB

Ward: Paddock

Expired: 23/04/2008

Recommendation Summary: Grant Subject to conditions



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Application and site details

This application follows the refusal of a planning application made last year for a ground floor extension, installation of air conditioning units and new shop fronts.

This application is for the erection of a single storey rear extension and the infill of the ground floor area, which at present is a void below the first floor flat, with the installation of air conditioning units and new shop front.

The application site forms two premises, 175 Broadway North and 141 The Crescent which is a retail shop that incorporates the local Post Office, meeting the day-to-day needs of the local community selling a basic range of household goods, soft drinks, confectionery, newspapers and magazines. The shop has recently been granted a licence to sell alcohol, which is now part of the products available. There is a public house opposite and residential properties to the north, east, south and southwest. The property is located next to a roundabout linking Broadway North and The Crescent, it is set back from the roundabout by a grassed area fronting its service road which provides parking space, and having an access point at each end allows customers to enter and leave from either Broadway North or The Crescent.

The proposed new shop front at 145 The Crescent would retain the entrance door and windows in the same position as those presently on the building.

The proposed single storey rear extension would project 3.5m from the existing single storey rear extension close to the boundary with 173 Broadway North and would be brought level with the two storey rear wing close to the boundary with 142 The Crescent. The extension would have a width of 7.3m. The proposal would increase the existing retail area of 76m² to 120m² and the storage area of 40m² to 52m².

There would be no windows on the extension, but one doorway leading into the store room. The extension is proposed to be 2.95m in height and would be brick built with a flat roof. The extension would serve to increase the products for sale at the shop, with the submitted drawings showing shelving and chillers for fruit and vegetables, chilled food, tinned items, health and beauty products and household goods

Two air conditioning units are proposed to be erected on the side wall of the extension facing towards the boundary shared with the garden of 173 Broadway North. The units would measure 1.2m by 0.95m, with a depth of 0.3m. The units would be positioned next to each other at a height of 1.3m above ground level.

The applicant in his design and access statement says that the shop provides for basket rather than trolley shopping. He says that the proposal is required as the limited size of the floorspace and its inefficient layout causes operational and other problems for the store which means on some occasions recently delivered goods have to be temporarily stored on the shop floor. The space limitations can also cause problems due to queuing associated with the Post Office making it difficult for other customers to easily walk round the store. The limited floorspace between the display stands is also not conducive for easy access by wheelchairs and children in pushchairs. The applicant says that the lack of display space and storage accommodation necessitates more frequent deliveries of goods, up to three times a week on occasions. The design and access statement says that despite the increase in retail floorspace, the nature of the goods being sold will continue to reflect the 'day to day' needs of the community. Additional display space will relieve some of the current storage problems and will enable existing range of convenience goods to be extended, e.g. allowing different multiple packs of crisps to be sold, selling a wider range of breads and cakes and offering a better choice to customers of prepared fresh and frozen foods.

The applicant state that the range of goods to be sold if planning approval is given would include:

- Chilled food including meats, sandwiches and snacks
- Milk and dairy products
- Cards and giftwrap
- Magazines and newspapers
- Confectionery, chocolate and sweets
- Chilled drinks
- Biscuits cereals and cakes
- Household products, cleaning products etc
- Health, beauty and personal hygiene
- Fruit and vegetables
- Chilled and ambient temperature beers, spirits and wines
- Seasonal and promotional goods – Easter eggs, buy one get one free etc.
- Stationary and packaging
- Batteries and sundry items
- Tobacco and cigarettes

Relevant Planning history

BC24374P – Extension and alteration to sales area and replacement shop front. Refused consent. 6/12/1988

BC47763P – Rear and side extension and refurbishment of existing retail outlet. Refused consent. 6/1/1997 and dismissed at appeal for the following summarised reason:

- Would adversely affect the character of the retail outlet, and would be an inappropriate form of development on the site which would be likely to lead

to increased congestion in the service road and interference with the safe and free flow of local traffic.

06/0640/FL/E6 – Ground floor extension to rear. Installation of ATM cash machines, new shopfront and entrance doors. Installation of air conditioning and refrigeration units within rear yard. Refused consent 2/8/2006 for the following summarised reasons:

- alter the character of this local corner shop
- increase its attraction to customers using cars and to large delivery vehicles
- fails to provide adequate level of parking provision
- detrimental impact on the amenity currently enjoyed by occupants of number 173 Broadway North by reason of loss of light and outlook
- proposed extension breaches the 45 degree code
- significantly reduces the amount of amenity space available to the flats at first floor

07/0128/FL/E6 - Proposed erection of single storey rear extension, including infill of ground floor area below raised first floor to rear, installation of air conditioning units and new shopfronts. Refused consent 24/5/2007 for the following summarised reasons:

- alter the character of this local corner shop
- increase its attraction to customers using cars and to large delivery vehicles
- fails to provide adequate level of parking provision
- air conditioning units would appear as an incongruous feature

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and Planning Services Website)

Unitary Development Plan

Policy GP2 seeks to ensure all development makes a positive contribution to the quality of the environment.

2.2 The Council will seek in permitting development creating, sustaining and enhancing a high quality natural and built environment throughout the Borough, including a high standard of design.

3.6 Development should help to improve the environment of the Borough.

Policy ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted.

Policy ENV35 seeks to ensure the appearance of commercial buildings should be appropriate to their setting and sympathetic to the building on which they are situated.

Policy S6 meeting local needs says extension to existing facilities will be permitted if it can be shown that:

- iii. there will be no likelihood of an adverse impact on the vitality and viability of any established centre in the Borough or elsewhere within the affected catchment area.
- vii. there would be no significant loss of amenity for neighbouring homes
- viii. servicing and parking associated with the proposed use must not create and significant road safety or traffic problems

Policy T7 says all development should satisfy the car parking standards set out in Policy T13.

Policy T13 for this type of development 1 car park space per 14m² of gross floor space.

Designing a better Walsall SPD

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

National Policy

Planning Policy Statement 1 encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

The proposed change of use does not conflict with the sequential approach outlined in Planning Policy Statement 6: Positive planning for Town Centres. PPG6 states that centres should be strengthened by seeking to ensure that there is a range of facilities, consistent with the scale and function of the centre, to meet people's day-to-day needs.

Consultations

Transportation – no objection subject to conditions.

Strategic Policy – no objections. The proposal is not too large in functional terms and under policy S6 there is a local need. There are no other shops in close proximity and the proposal is not disproportionate and may be beneficial in helping support the Post Office function. A condition is recommended to limit the permission to convenience shopping and Post Office use. It is considered that convenience goods are food, alcoholic drinks, tobacco, newspapers and magazines, and cleaning materials. All items that are purchased to meet day-to-day needs.

Environmental Health and Consumer Services – no objection.

Fire Service – satisfactory access for fire appliances.

Public Participation Responses

Councillor Martin objects to the application on the grounds that increase in visitors will be excessive for this small car park to sustain and she doubts whether changes to the car park layout will help. She states that the Broadway not only is the main route across Walsall, it services Junction 7 of the M6, Sutton Coldfield, Streetly, Pheasey, Great Barr, Aldridge, Birmingham, West Bromwich etc. Therefore it attracts a lot of passing trade. Ten years ago this increase was rejected by the Planning Inspector when traffic over the years may have increased. Pulling in and out onto a major ring road close to the island junction where there have been several accidents and the marking of the car parking causing more manoeuvring problems on the car park thus creating congestion onto the main road. Residents will be subject to an unacceptable level of noise and are already complaining of increased litter.

Twelve letters from neighbouring residents have been received objecting on the following grounds:

- Doubling the size of the shop and therefore increasing sales
- Increase the amount of customers and passing trade using cars but no increase in vehicle parking spaces
- Would lead to main road parking
- Service road used as a rat run
- Would constitute a deterioration of the immediate environment
- No changes to the 1997 and 2007 refusals
- Shop does not need to sell more goods to make it a better working place
- This is an application to attract more customers with cars to be able to purchase a wider range of good and so make more money
- Would change from a local corner shop to a supermarket

- Coned off parking would reduce amount of car parking
- Pedestrians will have to weave in and out of parked cars to get into this store
- There have been many accidents with cars exiting this shop onto the Crescent where children have been injured, people knocked off bikes and cars bumped.
- Air conditioning units will be a constant noise
- The site is too small to accommodate the size of the shop applied for
- Proposed parking bays do not allow enough room for safe manoeuvring, marked out parking bays will not prevent double parking
- Encourage further anti-social behaviour; the proposed CCTV for the ATM has still not been put up.
- Vehicles would have to reverse off the site

A petition with 52 signatures has also been received objecting to the proposal, but only limited weight can be attached to this as no grounds of objection have been cited.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Whether the scheme overcomes previous reasons for refusal in respect of:
 - o the character of this local corner shop
 - o amenity impacts from increased customers using cars and from large delivery vehicles
 - o providing adequate level of parking provision
 - o air conditioning units appearing as an incongruous feature
- Impact on the appearance of the building
- Other material considerations

Observations

Character of this local corner shop

Policy S6 requires extensions to existing facilities to have no adverse impact upon the vitality and viability of any established centre; no significant loss of amenity for neighbouring homes or creates significant road safety or traffic problems.

The application site is 1.2 kilometres from Park Hall Local Centre and 1.3 kilometres from the Walsall Town Centre Boundary. The nearest convenience shops to the application site are along Gillity Avenue, 270m away. It is considered that the application site is sufficient distance away from the Local Centre and Town Centre and adjacent shopping to ensure that the proposed extension would have no impact upon the vitality and viability of any centres of localised shops.

The applicant states that the existing store suffers from the conflict of queues from the Post Office and circulation of people within the shop. The proposal would help alleviate these issues, by providing a larger shop with greater spaces between aisles. The applicant states that the property does not seek to become a small supermarket rather increase the size of the shop to provide an improved experience for the customer while remaining to be basket shopping. The application now specifies the products to be sold from the shop which remain to be convenience shopping, which are items used to meet the day-to-day local needs.

The proposed extension would not seek to become a store for comparison shopping, but to increase the range of convenience items. This use can be secured by condition. The application site is within a sustainable location providing a local service in the form of the Post Office and a local need in terms of a retail shop. Strategic Policy do not object to the application as the proposal is not too large in functional terms and remains to meet local needs without being disproportionate. The proposal may also be beneficial in helping to retain and support the Post Office function. This satisfies the concerns which led to the refusal last year.

Amenity impacts from increased customers using cars and large delivery vehicles/adequate parking provision

The previous application was refused as there was a lack of parking spaces to meet the UDP requirements of 14 spaces. No plans were submitted showing dedicated parking bays to meet the Councils requirement. As a result this would lead to on road parking on the Strategic Highway Network. The application now defines 14 parking spaces, including parking for the two flats above the shop, disabled parking and cycle parking. On the basis of the total retail floorspace the amount of parking spaces meets the UDP requirement and is considered acceptable.

The applicant has stated that the two parallel parking spaces will be temporarily coned off from customer use when deliveries are expected. The 7.5 tonne delivery vehicle will park in this area to ensure that customer vehicles can manoeuvre through the site and to prevent blocking in other vehicles. The applicant states that because additional display and storage space will be available this will have the benefit of reducing main deliveries to one or two a week (excluding daily deliveries of newspapers and perishable goods). Transportation no longer object to the application. However, it is recommended that conditions are used to ensure that deliveries are accessed from the front of the shop and a revised parking layout is provided to ensure that the two footpaths leading through the grassed area are free from parked vehicles. It is required that prior to the development being brought into use, details of the service delivery bay operation shall be provided, including details of staff training, assessment of delivery requirements, including delivery times, duration and signage. Neighbours have raised concern about vehicles reversing off the site; as two accesses are available, provision is in place to prevent vehicles having to reverse from the site.

It is considered that appropriate parking provision and onsite management of delivery vehicles overcomes the previous reason for refusal.

The store is currently open to customers between the hours of 6am to 6pm Monday to Saturday (7.30pm Wednesday and Saturday) and 7am to 1pm on Sunday and Bank Holidays. The application proposes to extend opening until 8pm Monday to Saturday. At present there are no planning conditions restricting opening hours, therefore the shop could be open for longer periods which would be outside of the control of the Local Planning Authority. The proposed hours are considered acceptable and an appropriate condition is recommended to protect residential amenity and provide further control over the site.

Air conditioning units appearing as an incongruous feature

The air conditioning units have been positioned close to ground level to have a minimal impact upon visual amenity compared to the previous application when they were located higher up facing neighbouring residential gardens. The neighbouring residential gardens have relatively low level boundary fences of approximately 1.5m in height. The applicant specifies in his design and access statement a willingness to accept a condition for a 1.8m boundary fence to be erected to screen the proposed extension and air conditioning units. It is considered appropriate to secure neighbouring amenity by recommending such a condition. Environmental Health do not object to the application subject to the air conditioning units being operated in accordance with the manufacturers guidance. It is considered that the revised location and appropriate condition overcomes the previous reason for refusal.

Impact on the appearance of the building

The new shop front would have minimal impact upon the appearance of both the building and the street scene. The proposed extension would sit comfortably at the rear of the premises without having an over dominating impact upon the adjacent residential gardens.

Other material considerations

Objection letters from neighbours refer to the service road being used as a rat run cutting out the traffic island. The Transportation Officer does not object to the application and it is considered that the formal layout of the car park would provide natural speed calming. Letters have commented that CCTV required as part of a recent approval for an ATM machine has not been installed. This is not a material consideration of this application but its required installation will be pursued by officers. It is not considered that the proposal would lead to additional anti-social behaviour. The Police have verbally commented that they would not raise any objections to the extension of this existing shop. Concerns have also been raised about litter. A litter bin is located to the front of the shop; therefore it is considered that appropriate provisions are in place.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. Prior to the commencement of the development, details of specification and location of the Sheffield cycle stands shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first use of the building for and shall thereafter be maintained.

Reason: In order to secure the satisfactory development of the application site and ensure satisfactory provision of facilities for cyclists using the premises.

3. No development shall commence until an amended parking layout has been submitted to and approved in writing by the Local Planning Authority showing car parking spaces No. 3 and No. 4, moved in a northerly direction to allow sufficient aisle width of 6.0m for parking space No.4 to clear the disabled parking space No. 2 and that parking spaces have been altered to allow 2 pedestrian corridors, with a minimum width of 1.2m between the parked cars to link the two footpaths that connect the highway with the site, has been submitted to and approved in writing by the Local Planning Authority. The pedestrian areas shall be hatched on the ground to prevent the possibility of vehicular obstruction. Prior to the development being brought into use all parking spaces and pedestrian areas shall be marked out, and the disabled space marked out in accordance with current guidance and all spaces retained there after for no other purpose.

Reason: To ensure the satisfactory provision of off-street parking and in the interests of pedestrian and highway safety.

4. Prior to the commencement of development, details of the service vehicle delivery bay operation shall be submitted to and approved in writing by the Local Planning Authority. Information shall be provided of Martin McColl's Staff Training and Assessment of Delivery requirement, which shall include delivery times, duration and signage.

5. The use of the shop shall be used for convenience shopping only (see note for applicant).

Reason: To define the permission and to comply with Policy S6 of Walsall's Unitary Development Plan.

6. No works to the building shall commence until a 1.8m high close boarded fence has been erected to the side boundary shared with the rear garden of 173 Broadway North. The fence shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of retaining residential amenity.

7. The premises shall not be open for business outside the hours of 06.00 to 20.00 Mondays to Saturdays and 07.00 to 13.00 on Sundays.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

8. Deliveries shall only take place within the parking area to the front of the premises and shall be only via the front door.

Reason: To define the permission and to safeguard the amenities of the occupiers of adjoining premises.

9. The air conditioning units shall be installed, operated and maintained in accordance with the manufacturer's specification.

Reason: In the interests of residential amenity.

10. The walls and roof of the extension shall comprise facing materials that match those which are used in the existing building as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development

NOTE FOR APPLICANT: It is considered that convenience shopping includes goods such as food, alcoholic drinks, tobacco, newspapers and magazines, and cleaning materials and all items that are purchase to meet day-to-day needs.

NOTE FOR APPLICANT: This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated. A separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992 or subsequent legislation

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, ENV32, S6, T7 and T13 of Walsall Unitary Development Plan and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/0416/FL
Application Type: Full application
Applicant: Mr O Nandra

Case Officer: Owain Williams
Telephone Number: 01922 652486
Agent: Integrated Designs
(Midlands) Ltd

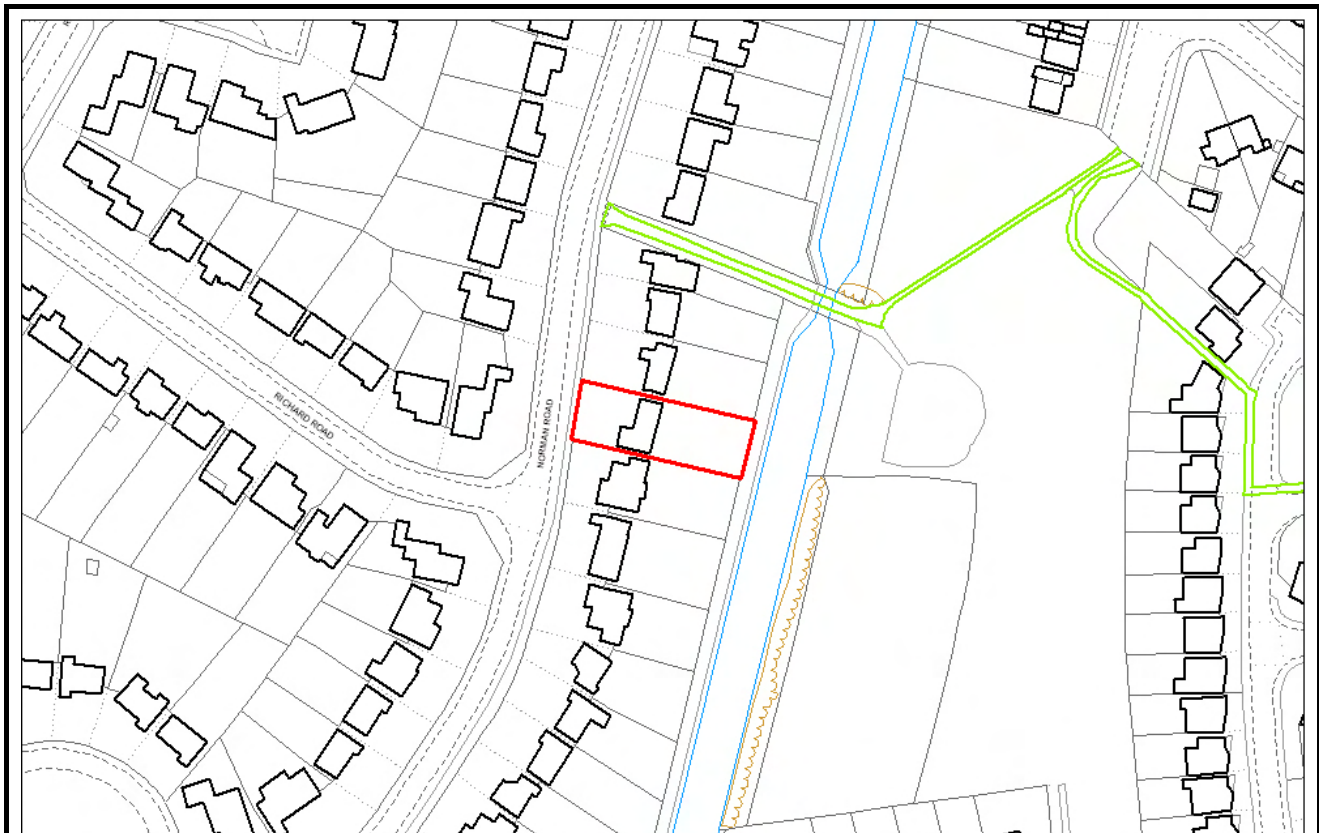
Proposal: Alterations to roof shape at rear and construction of garage as liveable room

Location: 32 NORMAN ROAD, WALSALL, WS5 3QL

Ward: Paddock

Expired: 02/05/2008

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application is for an amendment to the roof shape over the rear part of a new detached house that is currently under construction. The alteration has been proposed because of difficulty in manufacturing roof trusses to achieve the approved shape.

It is proposed to replace the approved single hipped roof over the rear part of the house with a pair of hips with a valley between. This part is to project 3.5 metres beyond the rear of the previous house that has now been demolished, and the same distance beyond the two-storey part of the adjoining house number 34. The two hips are to have a steeper pitch than the approved single hip, but the pitch will match that of the rest of the house, as well as the dwellings to either side.

No change is to be made to the ridge height or any other part of the dwelling.

The property on the opposite side, number 30, is a Bungalow. The rear of the two-storey part of the proposed dwelling will project approximately 2.5 metres beyond the rear of number 30, but the two-storey part will lie 2 metres away from the boundary.

The approved plans indicate an integral garage to be provided on the ground floor to the front. The current submitted plans indicate this area of the ground floor to be used as a living room instead with a window in place of the garage door.

Relevant Planning History

05/0264/FL/H1 - Part Two, Part Single-Storey Front, Side and Rear Extension – Allowed on appeal November 2005.

06/0413/FL/H5 – Replacement Dwelling – Granted Permission Subject to Conditions June 2006.

This was an identical scheme to the one allowed at appeal, but allowed for a complete rebuild, rather than extensions.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have

an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

Designing a Better Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

These guidelines include reference to the maximum lengths of extensions in relation to adjoining dwellings.

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Consultation Replies

None

Public Participation Responses

Representations have been received from the occupiers of 25, 28 and 34 Norman Road, objecting on the following grounds:

- The rear roof will be higher than before, further restricting sunlight to numbers 25 and 34;
- Query why the builders are unable to construct the roof as specified by the applicant's architect;
- The change from a garage to a living room will be out of character with the surrounding area, and will lead to on-street parking;
- Changing the garage to a living room will add to the total dimensions of what is already over-development.
- Building works are continuing as normal without planning consent.

The representations may be viewed on the application file in Planning Services.

Determining Issues

- Impact on the approved design and the character of the area;
- Impact on amenity of nearby residents; and
- Parking.

Observations

Impact on Approved Design and Character of Area

Although the introduction of a valley between the two hips would introduce a new element that would not reflect the simple shape of the roof of the original house or the approved replacement, the steeper pitch that is now proposed would provide a better match with the rest of the house and the adjoining properties. If the roof had of been built with a shallow pitch as previously approved, it may not have been possible to use tiles that match the rest of the roof or the other dwellings.

The roof change would not be visible from the street. Other dwellings nearby have more varied roof shapes, particularly to the rear. This includes number 34.

The window to be provided in place of the garage door would match those to be used in the rest of the house. Apart from the alteration to the roof, no change is proposed to the approved size of the building.

Impact on Amenity of Nearby Residents

The steeper pitch to the hipped roof over the rear section means that the highest part of this section of roof will lie closer to number 34 than on the approved plan, but the roof will slope up away from the boundary with number 34 providing a similar scenario to the previous approval. The highest part of the roof will lie 3 metres away from the rear corner of the new house and 5 metres away from the rear corner of number 34. The ridge will project less than 1 metre beyond the rear of number 34. The amendment will therefore have little additional impact on number 34, or the bungalow at number 30.

Number 25 lies on the opposite side of the road so the roof alteration will not be visible from this property.

Construction work has continued since the submission of the current application but has not at the time of writing included work on the roof. The applicant has been advised that any work that does not comply with the existing approval and which is carried out in the absence of a further permission is at their own risk.

Parking

There are no conditions attached to the existing planning permission that require the garage to be retained as such once the house is occupied. Even without the use of the garage for parking, the existing driveway in front has space for at least four cars.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: The facing bricks and tiles shall be as proposed in the letter from the applicant dated 4 December 2007 unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

4: The side-facing windows are to be obscure glazed.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5. No construction, demolition or engineering works, shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

Summary of reasons for granting planning permission and the policies which are relevant to the decision

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing a Better Walsall", and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was determined by the Development Control Committee, the report can also be viewed on the Council's web site at www.walsall.gov.uk/planning



ITEM NO: 4.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Yasin

Application Number: 08/0191/AD
Application Type: Advertisements

Applicant: Signature Outdoor Ltd
Proposal: Erection of 2 illuminated
advert hoardings

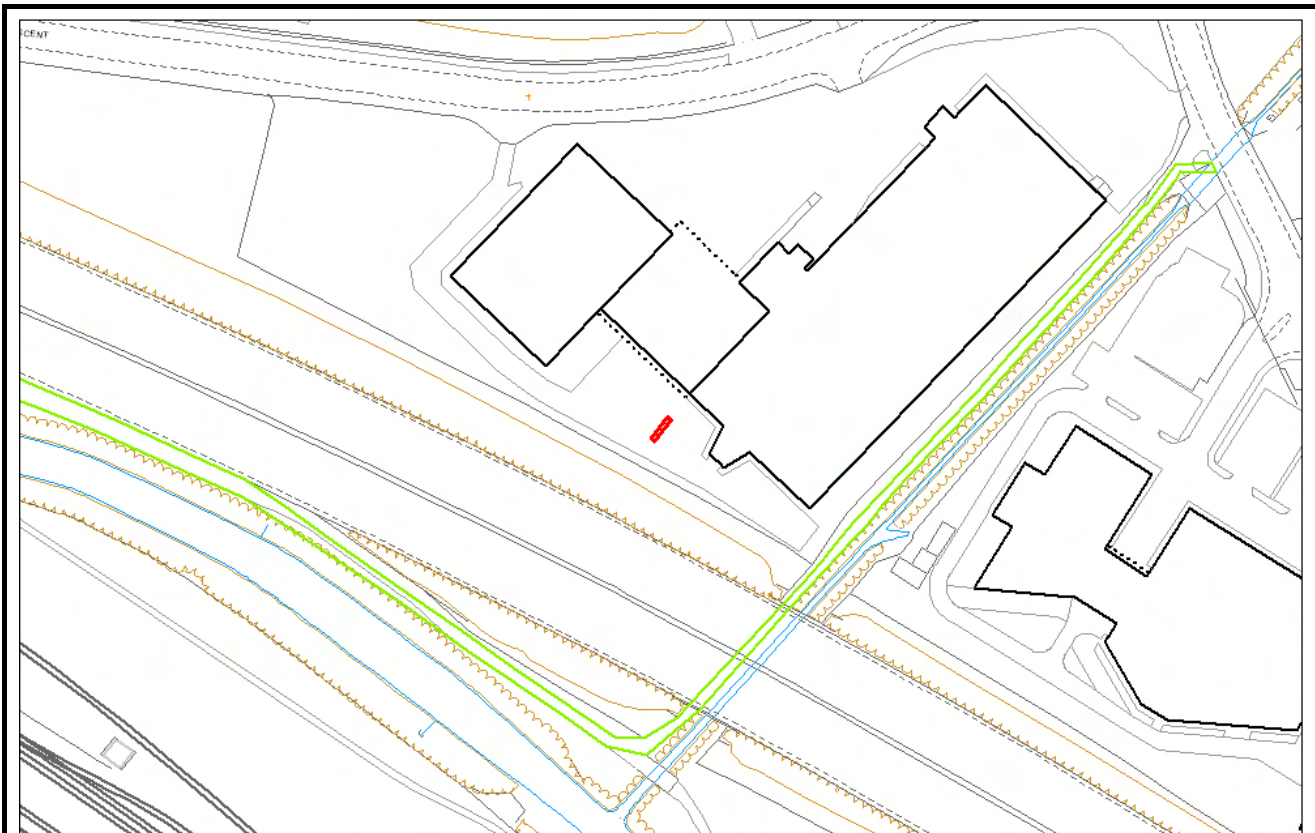
Ward: Palfrey

Recommendation Summary: Refuse Advert

Case Officer: Mrs J Scrivens
Telephone Number: 01922
652436

Agent:
Location: MIDDLETON GROUP,
BESCOT CRESCENT, WALSALL,
WS1 4DQ

Expired: 18/04/2008



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Status

Called in due to public interest.

Application and Site Details

This application proposes the display of a double sided internally illuminated advertisement at the rear of the Middleton Paper Company's premises in Bescot Crescent. The advertisement would be located in the company's car park which is immediately adjacent to the M6 motorway.

The advert would be some 8 metres from the edge of the M6's carriageway. The height from ground level of the car park to the underside of the advert would be 8 metres so that the display would be slightly above carriageway level. The advert would be 7.5m high and 5 m wide.

The application site is midway between junctions 9 and 8, adjacent to a section of the motorway where the M6 lane markings and overhead gantry signs split traffic flows into two, in advance of the M6/M5 junction. The advert would be directly to the south of a Variable Message Sign, between that sign and another overhead gantry sign.

In addition to motorway signs there are also several advertisements in the vicinity of the site. The football club to the north west of the application site has various advertisements including hoardings on the south stand and two monopoles. Two recent approvals have been given for a free standing poster unit which would replace some of these signs.

A portrait format sign was approved in 2005 on the site of DSM demolition, just to the south of junction 9; a three sided display on a 15 metres monopole was approved in 2002 on a site opposite the football club and in the same year two pole mounted panels were allowed adjacent to the Centro car park at Bescot Station.

Relevant Planning History

The site.

02/0015/AD/W3 illuminated and non-illuminated advertisements. Granted subject to conditions 21.2.02

03/0716/FL/W4 new Warehouse building. Granted subject to conditions 5.6.03

05/0928/AD/W4 two poster hoardings on building. Refused 29.6.05 for reasons relating to highway safety, advertising clutter and as detrimental to the character and appearance of this group of buildings

05/2280/AD/W5 Portrait uplit display. Refused 4.1.06 for reasons relating to visual clutter, highway safety and as detrimental to the appearance of the building.

06/0153/FL/W7 Extension to paper storage building. Granted subject to conditions 6.4.06

06/1857/AD/W4 portrait uplit display. Refused 12.12.06 for reasons of highway safety, visual clutter and as detrimental to the appearance of the building. Ministry appeal dismissed 17.5.07

07/2664/AD/W3 Double sided illuminated advert. Withdrawn 5.2.08

The football club

The poster hoardings on the roof of the south stand (three v-shaped pairs) were given consent over a period from 1992 to 1996.

In 1995 a monopole V-shaped display in the car park (BC43256P) was approved.

In 1998 a second monopole (also a v-shaped display) in the car park was approved. It was built 2 metres higher than approved and a retrospective application made. This application was refused as impacting unacceptably on residents. After a representations hearing it was allowed (BC52670P) in 1998.

Another v-shaped pair, also on a monopole in the car park was approved but not implemented.

In 2004 a hoarding 65 metres long, 12 metres tall was approved (03/2212/AD/W4) It was proposed to be attached to the new south stand (also approved but not implemented).

07/1871/AD/W3 for a free standing two faced display unit was granted on 16.10.07

07/2586/AD/W1 Free standing two faced display unit. Not yet determined.

South of James Bridge site

02/1905/AD/W3 for a single sided 96 sheet illuminated monopole display was approved in 2002.

DSM Demolition (just south of junction 9 close to football club site)

A double sided monopole was approved in 2005 (04/2486/AD/W5) It was amended to a portrait format sign (05/0519/AD/W5) in 2005.

Chillington Manufacturing, Bescot Crescent

08/0448/AD Illuminated free standing two faced advertisement. Not yet determined

08/0449/FL Support structure for 08/0448/AD. Not yet determined.

Bescot Crescent

A three sided display on a 15 metre monopole at a factory opposite the football club was refused in 2001 but later allowed at a representations hearing and approved in 2002 (02/0718/AD/W4).

Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Development Plan

GP2 and 3.6 states that the Council expects all development to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Chemes should, as far as possible, help to improve the environment.

ENV32 states that poorly designed development which fails to take into account its context or surroundings will not be permitted.

ENV36 states that poster hoardings will not be permitted where they have a detrimental effect on either the amenity of an area and its residents or public safety. The most appropriate locations are likely to be areas of mainly commercial character. Hoardings are unlikely to be permitted on sites visible from motorways and on prominent sites on classified roads.

National Policy

Planning Policy Statement 1: Creating Sustainable Communities both emphasises the need for good design and development which is sustainable.

Planning Policy Guidance 19: Outdoor Advertising states that advertisements should be considered in terms of visual amenity and public safety. Paragraphs 15 and 16 suggest that 'LPAs will consider the likely behaviour of drivers of vehicles who will see the advertisement... the vital consideration in assessing an advertisement's impact is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers people in the vicinity who are taking reasonable care for their own and others' safety'.

Circular 3/2007 sets out the guiding principle that in making decisions on adverts 'Local Planning Authorities are required to exercise their powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors' (para.5)

Appendix B sets out relevant considerations to be taken into account with regards to the effect of advertisements on public safety. The key passage in the context of this application is:-

MOTORWAYS

'6. Land alongside motorways is landscaped for reasons of safety and appearance. Only prescribed or authorised traffic signs are permitted on land acquired for motorways. Advertisements may, however, be permitted within a motorway 'service area'. Local Planning Authorities should ensure that on other land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed...

'148. As there are road safety issues in displaying advertisements alongside motorways and other trunk roads the Highways Agency should be consulted about any application for express consent. The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given'.

Consultations

Highways Agency: Objects to the proposal for the following reasons:

- This stretch of the M6 is elevated and carries up to 180,00 vehicles a day. The proposed advertisement lies adjacent to the section of the motorway where the lanes diverge between the M6 and the M5 and is also sited in between an overhead gantry sign and a variable message sign (VMS). These particular characteristics make this a particularly complex and hazardous stretch of motorway where driver concentration is paramount.
- The advert is very deliberately designed to attract the attention of motorway users. Its size, angle to the road, illumination and location mean that it will represent a significant source of distraction to drivers and will divert attention directly away from the Variable Message Sign as drivers approach it.
- The introduction of this level of additional driver distraction into an already complicated and hazardous motorway section undermines highway safety and increases the risk of an accident occurring. These issues are compounded by the elevated nature of the motorway in this location, which gives less scope for vehicles and their occupiers to stand clear of the traffic in the event of an incident. There is also less space for rescue and recovery work to take place.

- The Council's own UDP policy and national policy in Circular 03/2007 makes it clear that in such circumstances advert consent should be refused.
- Planning Inspectors have previously concluded on at least three previous occasions locally that advert hoardings of this type and in comparable locations are detrimental to highway safety.
- Advertisement applications can only be considered having regard to amenity and public safety.

The Highways Agency also states that the impact of driver distraction has been extensively researched and that in March 2007 Brunel University concluded that roadside advertising had a detrimental effect upon drivers' performance and attention, making them more likely to crash.

Environment Agency: No objection. The sign is located in Flood Risk Zone 3 but will result in minimal loss in flood storage volume. The volumes associated will be reduced further if the signage had no fill between the two supports to a level of 112.85m AOD. It is essential that there is a minimum of 8 m maintenance access strip between the sign and nearby buildings to allow unobstructed access to the Ford Brook/River Tame confluence.

Pollution Control: No objection. The area was previously used as a sewage works which may have resulted in localised contaminated soils that may present Health and Safety Implications for persons undertaking ground works. The applicant should be advised of this. The land is also producing elevated methane concentrations (an explosive gas) and it is recommended that a condition is imposed relating to the specification for the signage to ensure that methane does not come into contact with an ignition source.

Representations

None

Determining Issues

Visual amenity
Public safety
Precedent in area

Observations

Visual amenity

The advertisement would be on the motorway side of the Middleton site and would have little or no visual impact on Bescot Crescent.

The buildings for the Middleton Group of Companies have a modern appearance with strong clean lines and uncluttered elevations. They provide a strong visual feature in the built environment bordering the motorway and complement the adjacent landmark RAC building.

Although the proposed advertisement appears to have been designed to try and complement these buildings, it would detract from their setting by both removing the open area in front of them and by partially obscuring the view of the buildings from the motorway. It would also detract from the existing company signage on the building by adding clutter.

This part of the motorway has various motorway signs, traffic signs, company signs and posters, some of which are essential for the functioning of the motorway and to identify business premises. The addition of a further advertisement would add advertising clutter to a very prominent area of the Borough to the detriment of its character and visual amenity.

There have been three previous refusals for illuminated advertisements on this property. The most recent refusal, 06/1857/AD/W4, was the subject of an appeal. This was dismissed by the Inspector who considered that the impact of the display on the building and its setting was unacceptable and detrimental to the interests of visual amenity. The current proposal does not and could not address this problem.

Highway safety

This proposal would be detrimental to highway safety. In the appeal against the refusal of 06/1857/AD/W4 on this site the Inspector supported the Highways Agency view that this is a very busy and difficult section of motorway that requires an exceptionally high level of driver concentration and where even a moment's hesitation could lead to an accident.

The advertisement proposed in this application would be in a similarly prominent position, but even closer to the motorway. The proposed advertisement would be located between a variable message traffic sign and an overhead gantry, both of which display important information for drivers. It is important that drivers are able to absorb the information provided on such signs without the distraction of additional advertising to contend with.

Precedent in area

Historically there have been several approvals for large adverts/monopoles in the vicinity of the application site. These tend to pre-date the adoption of Development Plan policies which reflect a growing concern over amenity and highway safety. Since 2003 there have been no approvals of such advertisements alongside the M6 and since 2003 three appeals have been dismissed by the Inspectorate. It is clear that driver safety is a key issue in relation to motorways and all the appeals conclude that displays of this sort should not be permitted.

Most recently there has been the approval of a very large double faced sign at the football club. The determination of this application was partly secured by an undertaking to remove other signs on the premises.

Planning decisions must however be made on the merits of the proposal, not on precedent. In this instance the proposal is unacceptable both in terms of visual amenity and highway safety.

Recommendation: Refuse Advert

1. The proposed advertisement display would detract from the appearance and setting of the buildings on this site and the adjacent RAC building by partially obscuring the view of them from the motorway, detracting from the existing company signage and adding clutter which would be detrimental to the visual amenity of the area. The approval of this application would be contrary to policies GP2, 3.6, ENV32 and ENV36 of Walsall's Unitary Development Plan.

2. The proposed advertisement display, together with existing motorway, traffic signs, company signs and posters would create further visual clutter and would be a distraction to passing motorists on a busy and difficult section of motorway which requires a high level of driver concentration. The approval of this application would therefore be detrimental to the visual amenity of the area and to public safety, contrary to policies GP2, 3.6, ENV32 and ENV36 of Walsall's Unitary Development Plan.



To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 08/0321/FL
Application Type: Full application
Applicant: Messrs Exol Lubricants Ltd
Proposal: Extension to warehouse

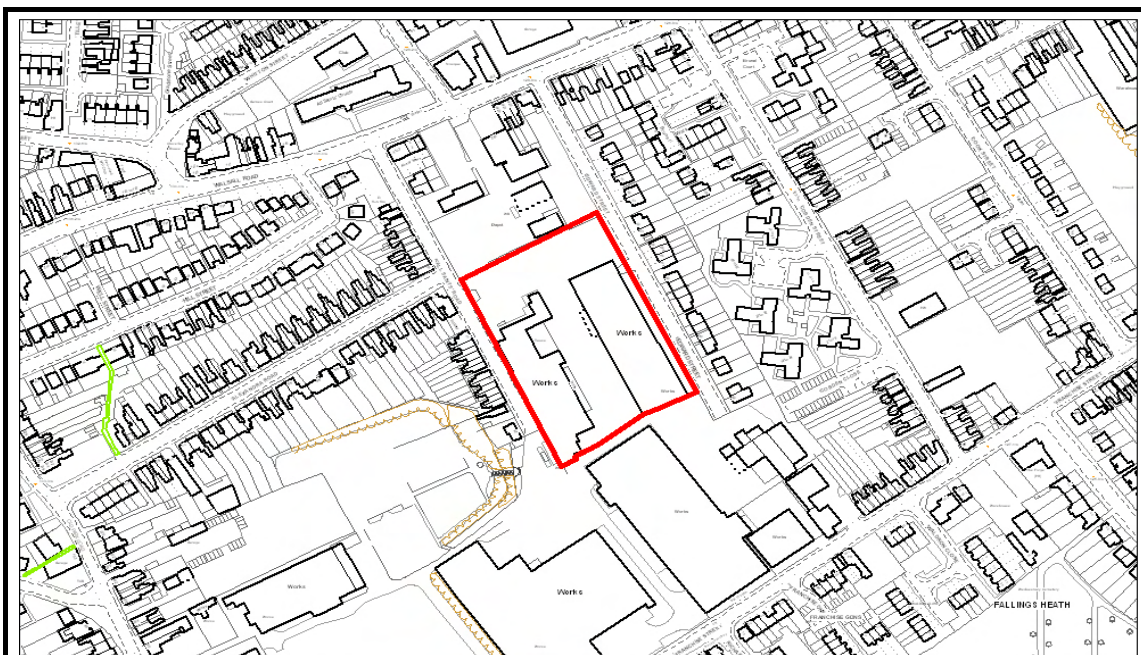
Case Officer: Karon Hulse
Telephone Number: 01922 652492
Agent: David Rudge Associates

Location: EXOL LUBRICANTS LTD, ALL SAINTS ROAD, WEDNESBURY, WS10 9TS

Ward: Bentley & Darlaston North

Expired: 06/05/2008

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

This application seeks to extend the existing factory at Exol Lubricants, All Saints Road, Darlaston to provide internal storage area for finished products.

The new extension will infill an area of open storage along the rear boundary with Edwards Street and would continue along the same line as the existing factory on that boundary. It will measure just over 10 metres in height and be constructed of similar materials to those of the existing buildings.

Approximately 10 metres to its ridge, 25 metres wide and 29 metres deep. The front elevation (into the yard area) would have two roller shutter doors.

The need for this building has resulted from recent storm damage to existing buildings which front onto All Saints Road, which has exposed the need for major works as a priority. The nature of the building is such that demolition is appropriate. The proposed building is the replacement. When operational, demolition of the old building would follow. The proposals include removing the old buildings but retaining part of the outside walls to provide a noise barrier and create a new entrance into the site with the existing one becoming exit only. This will provide better circulation around the site and improve the appearance of the site from All Saints Road.

There will be no impact on car parking and delivery will be improved.

Relevant Planning History

There is a long history on this site, many relating to various extensions to the existing premises. The most recent application was for replacement of a roof and recladding of existing walls which was approved in December 2004.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Unitary Development Plan

GP2 ... expect all developments to make a positive contribution to quality of the environment...development having adverse impact on environment will not be acceptable...traffic impact

3.7...proposals for development or redevelopment should protect people from unacceptable noise, pollution and other environmental problems...encourage relocation of bad neighbour uses from residential and other sensitive areas

4.2...promotes investment and diversification to meet the needs of both inward investors and existing firms

T7... Car Parking all developments to comply with T13...provide car parking not exceeding maximum standards

T13 on parking standards (1 car space per 30 sq.m. gross floorspace, 1 bike locker per 10 car spaces, taxi facilities)

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National planning guidance

PPG4 - seeks a positive approach to the location of new business developments and assisting small firms....economic growth and high-quality environment to be pursued together....the importance of industrial and commercial development to be considered with that of maintaining and improving environmental quality.

PPG13 on transportation seeks no more parking than a developer regards as necessary, subject to not creating road safety issues.

Consultations

Transportation - No objections

Pollution Control Division (contaminated land team) - No objections

Pollution Control Division (scientific team) - No objections

Drainage – No objections

Public Participation Responses

Two letters of objection and a petition containing 40 signatures objecting to the proposals on the following grounds

- Noise pollution
- Vibration to homes
- Increased traffic from proposed secondary access

- Already a secondary entrance in Edward Street
- Loss of light
- Loss of privacy
- Safety of children
- Environmental impacts of hydrocarbons
- Health and well being of residents
- Need for time restrictions of hgv's
- Residential area

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- appearance
- car parking / access

Observations

Appearance

The new building will appear as an extension and continuation to the existing buildings which currently runs along most of the rear of the site, on the boundary with Edwards Street. Whilst it will be marginally taller than the existing building (approx 2 metres) this difference will hardly be noticeable from outside the site. The longer length of the extended building would have little impact or effect on the houses.

Furthermore there is an existing 5 metres deep landscaping strip along the boundary with Edwards Street which will help to screen the industrial appearance of this extension to those residential dwellings opposite. This is also subject to enhancement through further planting which will be required as a landscaping scheme to be submitted as a planning condition on any approval.

In addition, the extension will enclose the current external storage area which can be viewed from properties in All Saints Road therefore this view would be improved by the siting of the new extension

Car parking

There are no objections from the Transportation Division. The extension would not adversely impact on manoeuvrability around the site or loading and unloading.

The new access enabling the creation of an in/out from the site will provide better manoeuvring within the site.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development shall be constructed in facing materials to closely match those used in the adjacent existing building.

Reason: To ensure the satisfactory appearance of the development.

3. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice, details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. A copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion. Any agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use.

Reason : To ensure the satisfactory development of the site.

4. Before the new access is first used or at such later date as may be agreed in writing by the Local Planning Authority, the parking spaces which shall include a minimum of one parking space allocated for disabled users, demarcated in accordance with current guidance and located near to the entrance to the office shall have been clearly marked out and thereafter retained and used for no other purpose.

Reason: To ensure the satisfactory provision of off-street parking.

5. Any gates erected across the new access shall be inwardly opening only and whilst the building is in occupation those gates shall be retained in the open position.

Reason : In the interests of highway safety.

6. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

7. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

Notes for Applicant

A. When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

B. Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

C. When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.7, 4.2, T7 and T13 of Walsall's Unitary Development Plan and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



ITEM NO: 6.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Sale Of Council Owned Land

Application Number: 08/0352/FL
Application Type: Full application

Case Officer: Karon Hulse
Telephone Number: 01922
652492

Applicant: The Norman Laud
Association

Agent: Spooner Architects

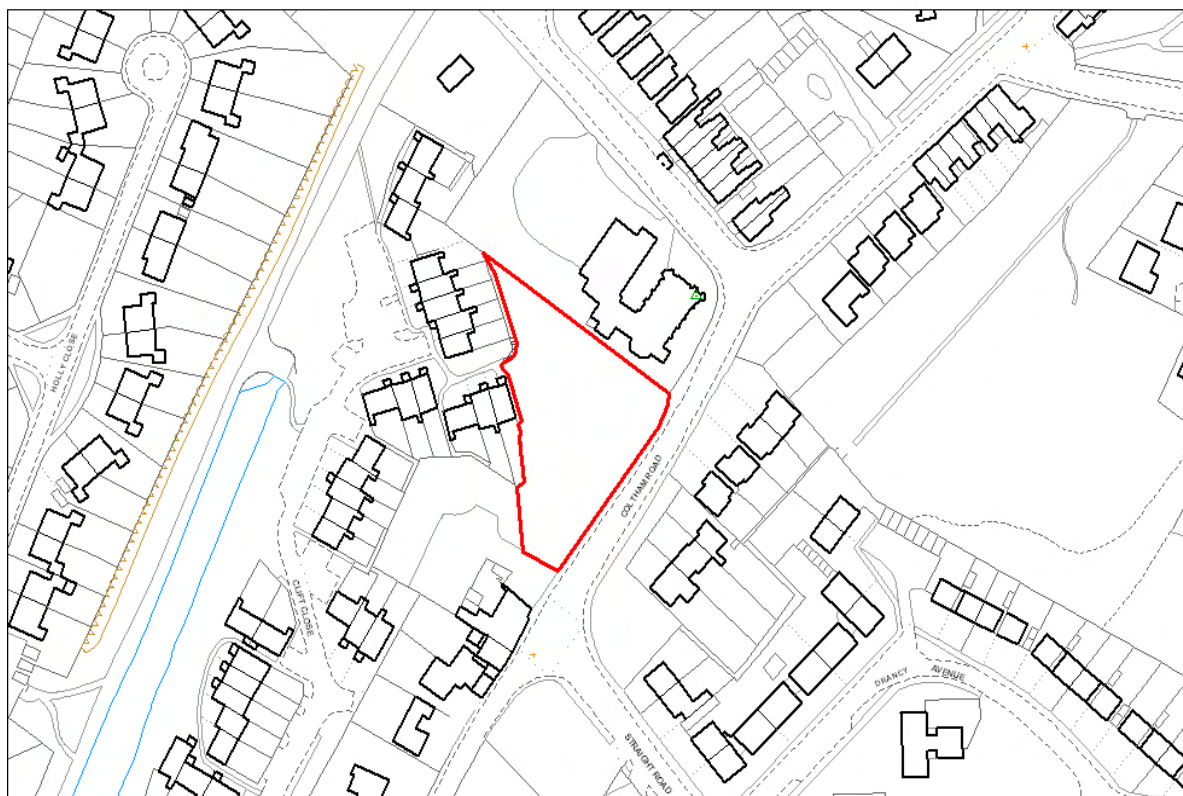
Proposal: New Respite Centre

Location: LAND AT COLTHAM
ROAD, WILLENALL

Ward: Short Heath

Expired: 10/06/2008

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The application proposes the erection of a new respite centre, providing care for people with learning difficulties or physical disabilities for varying periods of time.

This application relates to vacant land adjacent to Short Heath Methodist Church, Coltham Road. The site is in Council ownership. There is residential development facing the site and to the rear and there is a public house with its car park to the southwest.

The building is predominantly single storey, with staff facilities being provided in the roof space. There would be two side facing windows looking out over the proposed car park towards the adjacent pub car park.

The new building would be set back between 5 and 15 metres from Coltham Road and would face the dwellings opposite at approximately 27 metres. There would be no overlooking between the building and the dwellings at the rear, which are angled away from the building. A private garden area would be provided to the rear approximately 500 sq. mts. New fencing would be provided to the rear passageways to properties in Clift Close.

Other details relate to the operation of the centre i.e. there will be a total of eight bedrooms with en-suite facilities, with three separate lounges and dining facilities provided the following information : the age range would be for under 50 year olds, day-care may be provided during term time. The premises would be registered for eight residents, maximum at any one time. There would be a maximum of 6 staff on duty at any one time. Staff would be on duty 24 hours a day approximately 362 days per year. They would work in three shifts, changing at 7 am, 3 pm and 11 pm. There would be staff accommodation on the first floor.

Access to the site would be from Coltham Road approximately 30 metres from its junction with Straight Road and Ezekiel Lane and 80 metres from its junction with Wesley Road. These junctions are virtually right angled bends. Nine parking spaces would be provided with space for emergency vehicles or loading / unloading also within the site. Users would either be delivered by parents/carers or collected by a minibus based at the centre.

Relevant Planning History

There has been one previous application on this site which proposed a similar scheme to this i.e. a new respite centre. Following a number of concerns the application was withdrawn in order to address those concerns. It was withdrawn on 11th May, 2005.

The application site was previously affected by a road improvement line which linked Straight Road with Wesley Road as part of a larger scheme affecting the A462 from Lichfield Road to Walsall Road, Willenhall. The whole road scheme was revoked in 1999.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Unitary Development Plan

GP1... seeks to maximise the re-use of derelict, vacant and underused urban land.

GP2...lists considerations to be taken into account in the assessment of development proposals, these include, amongst other things, overlooking, loss of privacy and the effect on daylight and sunlight received by nearby property, accessibility by a choice of means of transport, traffic impact, including the adequacy of the proposed access; and the adequacy of parking facilities.

GP2 and paragraph 3.6 require new development to make a positive contribution towards the environment.

GP5 promotes equal opportunities...attention given to the needs of people who are disadvantaged

H6 sets out criteria for the assessment of planning applications for nursing homes and homes for the elderly.

T12(c)...relates to highway access etc for Health and Educational Facilities

T13 relates to car parking standards.

8.7...provision of new facilities for health will be encouraged

S6...concerned with meeting local needs

7.5 and T1 expect development to conform to accessibility standards set out in policies T10 to T13.

Designing a better Walsall SPD

Aims to achieve high quality development that reflects the borough's local distinctiveness and character through the following principles and policies.

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the

strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy UR1 - Urban Renaissance in the Major Urban Areas (MUA's)

Policy CF1 - Scale and range of new housing development

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National Policy

Planning Policy Guidance Note 13: Transport (PPG13) states at paragraph 51 that local authorities should ensure that, as part of a package of planning and transport measures, levels of parking provided in association with development will promote sustainable transport choices.

Consultations

Transportation – no objections

Fire Service – no objections

Environment Agency – no objections

Pollution Control Division (scientific team) – no objections

Pollution Control Division (contaminated land team) – no objections

Access and Disability Officer – objects on grounds that no lift access to the first floor and sanitary facilities for visitors on the ground floor are not acceptable

Walsall integrated disability services – no objections

Severn Trent Water Ltd. – no objections

British Waterways – no objections

Centro – no objections

Public Participation Responses

I have received two letters of representation raising concerns and objections on the following basis:

- The building will be next to my property
- Overlook garden causing lack of privacy
- Rear gates to car port will be obstructed
- Loss of green area

- Dangerous busy road
- Vehicles mount the pavement to get round corner
- Bin store too close causing noise and smells
- No indication of fencing type
- Should be no affect on visibility leaving the car park
- Facing brickwork / tiles should be of a similar colour to the church and surrounding dwellings
- The play area should be replaced

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Amenity
- Parking/highway safety.
- Residents concerns
- Objection from Access and Disability Officer

Observations

Amenity

There are no specific policies in the development plan which relate to respite centres. However the use is very similar to a nursing home in character and as such is appropriate to a residential area.

The proposed number of bed spaces is modest and unlikely to give rise to an unacceptable level of activity. The applicants have indicated that the premises would be registered for 8 people only so that the number of day-care places would be limited by the number of people occupying the rooms, and therefore the spare capacity for day care.

The development would meet Council standards for distances between facing habitable room windows. There would be no overlooking between the building and the houses at the very rear of the site. The building would be closest to the rear of no.28 Clift Close. The proposed building has been angled and there are no windows proposed in that part of the buildings rear elevation that would overlook or look directly at the rear of number 28 Clift Close. Furthermore there is an intervening hedge and landscaping along that boundary. On balance it is considered that the relationship between these two buildings would be acceptable.

The building itself has been set back from Coltham Road and would be buffered from the adjacent public house by both its own car park and that of the pub, a distance of approximately 31 metres. There would be a substantial area of rear garden available for users of the centre. Overall, the site would provide a satisfactory residential environment for its future occupants whilst protecting the amenities of existing ones around the site.

Parking/highway safety

The proposals have been the subject of extensive pre-application discussions, including speed and traffic surveys along this section of Coltham Road.

Sufficient parking space is provided for the use, which exceeds the standard for a nursing home (which would require 4 spaces). The application proposes 10 car parking spaces, including one disabled space and one space for a minibus or similar. This level of provision is considered adequate to accommodate the additional staff / visitors that could be expected over and above that of a traditional nursing home.

The visibility splays available along Coltham Road are acceptable, given the prevailing traffic speed. A condition is proposed requiring that the visibility splays shown on the deposited plans are kept clear of any obstruction over 1.05 metres in height and any landscaping above 600 mm in height.

There is a footpath which runs across this site from Clift Close to Coltham Road, this is not a definitive footpath and there is no requirement to include one in this application, it is simply a short cut which has been created by local residents.

Residents Concerns

Two local residents have raised a number of concerns and objections to this application.

The resident to the rear of the application site has stated that her building will be overlooked however the position of windows and the buildings orientation has been carefully considered in order to avoid any such impact, for examples there will be no windows which would directly look over that garden.

Also with regards to the gates which give access to a car port in the rear garden of the objector, it has been confirmed that there is no lawful right of access across this council owned land.

The bin store has been relocated closer to the proposed car park which will give better access for refuse vehicles and moves it away from the boundary with that property.

The Transportation Officer is satisfied by the application and does not consider there to be any highway issues.

Boundary treatment and facing materials would be covered by planning conditions imposed by any planning condition.

Objection from Access and Disability Officer

The objections raised by the Access and Disability Officer can be addressed through altering some of the internal arrangements within the building. A stair lift could be provided by rearranging the provision of facilities for staff on the first floor and the position of the of sanitary facilities on the ground floor could also be re-examined at the Building Regulations stage, none of which has a direct impact on the determination of this application. The applicants attention should be drawn to this matter by way of a Note For Applicant should any approval be granted.

Conclusion

The relatively modest nature of this proposal makes it acceptable on this site, with a maximum of 8 people generating probably less activity than the seven houses which are on the opposite side of Coltham Road to the site. Provided that the level of occupation is controlled by condition then this proposal is acceptable.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. No development shall be carried out unless and until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been made submitted to and approved in writing by the Local Planning Authority, and the approved scheme shall be implemented prior to the development commencing.

Reason : To ensure that the development permitted is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

3. No development shall be carried out until full details of the proposed boundary treatment of the site have been approved in writing by the Local Planning Authority. The submitted scheme shall include any internal site divisions. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining premises and ensure the satisfactory appearance of the development.

4. No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

5. No development shall be carried out until details of ventilation and fume control equipment have been approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use, and thereafter retained in working order.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

6. This development shall not be carried out until a schedule of facing materials to be used in external walls and roofs has been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the access as shown on the deposited plans, without the prior approval of a planning application.

Reason: To ensure the satisfactory provision of off-street parking, ensure the satisfactory functioning of the development and in the interests of highway safety.

8. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development.

9. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

10. Before this development is brought into use, the accessways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in tarmacadam (or alternative impervious hardwearing material to be agreed in writing by the Local Planning Authority). The areas shall thereafter be retained and used for no other purpose. The parking spaces have been clearly marked out.

Reason: To ensure the satisfactory provision of off-street parking, ensure the satisfactory appearance and functioning of the development and in the interests of highway safety.

11. Notwithstanding the notation on the deposited plan nothing shall be planted, erected or allowed to grow within the visibility splay at the entrance / exit to the site, above a height of 600mm from carriageway level, and a plan and specification showing details of pedestrian visibility splays at the new entrance to the school, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

NOTE FOR APPLICANT : The internal layout of the building will not satisfy current Building Regulations legislation for new builds. You are advised to contact Building Control Services on 01922 652408 for advise on what will be required to satisfy the requirements.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP1, GP2, 3.6, GP5, H6, T12, T13, 8.7, S6, 7.5, T1, T10 and T13 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



ITEM NO: 7.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 08/0455/FL
Application Type: Full application

Case Officer: Mrs J Scrivens
Telephone Number: 01922
652436

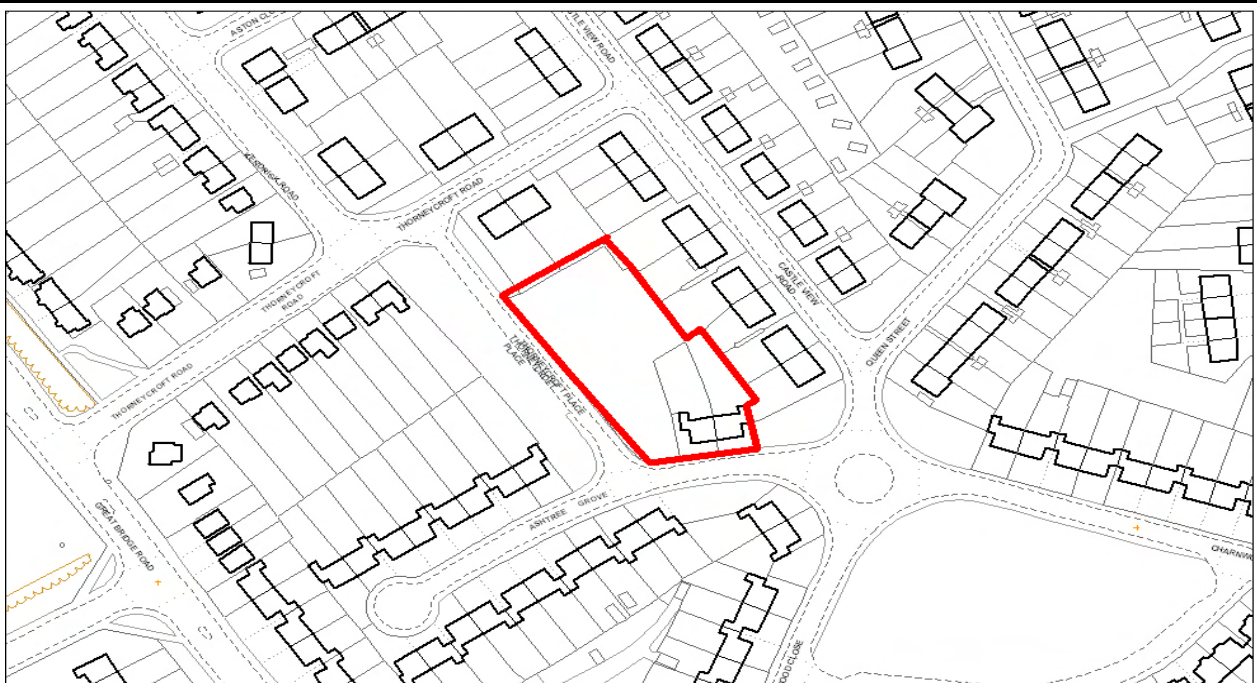
Applicant: Walsall Housing Group
Proposal: Erection of 4 no. 2 bed
bungalows and 6 no. 2 bed apartments,
parking and access facilities,
landscaping

Agent: Russell Hobbs Architects
Location: Land at Thorneycroft
Place/Ashtree Grove, Moxley, W14
8LU

Ward: Darlaston South

Expired: 12/06/2008

Recommendation Summary: Grant Permission Subject to Conditions and a
Planning Obligation



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Application and Site Details

This application relates to a vacant site at the junction of Thorneycroft Place and Ashtree Grove, Moxley. The site was previously in residential use. The surrounding area is wholly residential with two storey houses, two storey flats and bungalows in the vicinity of the site. There is an area of grassed amenity space on the opposite side of Thorneycroft Place which adjoins the side of houses in Thorneycroft Road and Ashtree Grove.

The application proposes the erection of two pairs of semi-detached bungalows fronting Thorneycroft Place and a block of six flats fronting Thorneycroft Place and Ashtree Grove. All of the dwellings would have two bedrooms. It is intended to allocate the bungalows and flats to elderly persons.

The bungalows would have rear gardens of between 13 and 14 metres in length and 104 square metres in area. There would be approximately 29.5m between the rear windows of the bungalows and those of the two storey flats to the rear of the site in castle View Road. The application flats would have some 257 square metres private amenity space at the rear. Two of these flats would face two storey flats in Castle View Road at a distance of approximately 31 metres. The remainder of the application flats would face towards the rear gardens of the bungalows.

The bungalows and flats would all be provided with solar water heating panels, water butts, timber sheds, recycling and composting facilities and rotary clothes dryers.

The density of the development would be 44 dwellings per hectare.

Each bungalow would have one parking space. This would be wider than normal both to provide disabled parking and to aid manoeuvring, since the carriageway of Thorneycroft Place is only 4 metres wide.

Six parking spaces for the flats would be provided at the rear of the block, with a 4.8m wide gated access from Thorneycroft Place, passing between the proposed flats and the bungalows. A seventh space would be provided on the front of the site. The flats would also have secure cycle parking.

Relevant Planning History

07/1118/PD/W6 Demolition of a pair of semi-detached houses at 20 Ashtree Grove. Prior approval granted subject to conditions 12.07.07

Relevant Planning Policy Summary *(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)*

Development Plan

GP2 and 3.6 expect all development to contribute towards the improvement of the environment.

GP3 advises of the use of planning obligations to improve or secure urban open space

ENV32 requires development to take account of its context or surroundings

H3 supports the re-use of previously developed sites for housing

H5 supports the provision of housing for people with special needs such as the elderly.

H9 advises that densities of between 30 and 50 dwellings per hectare are likely to be suitable on most sites.

H10 requires residential development to create a high quality living environment, well integrated with surrounding land uses and local character

A Supplementary Planning Document relating to Urban Design was adopted in February 2008.

T7 and T13 relate to car parking

8.7 and LC1 relate to the retention or enhancement of urban open space.

A Supplementary Planning Document relating to Urban Open Space was adopted in April 2006

Regional Spatial Strategy

Regional Spatial Strategy for the west midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

Planning Policy Statement PPS1 encourages sustainable development and good design

Planning Policy Statement PPS3 supports increased housing on brownfield sites.

Consultations

Transportation: No objection. The level of parking is considered acceptable for elderly persons accommodation. Recommends that visibility splays to the access and individual driveways should be retained by condition and that a bin hardstanding should be provided adjacent to the highway.

Pollution Control Scientific Team has no objection to this development with the proviso that measures are put in place to address noise issues from construction. Conditions have been recommended to this end.

Pollution Control Contaminated Land Team has no objection to this development subject to a desk study and site reconnaissance being carried out to identify the potential for contaminants and/or ground gases likely to be present on the site. Should the potential presence of contamination and/or ground gases be identified on site a ground contaminated survey and site

investigation should be carried out to identify risk to future occupants or structure on the site. Conditions to address these concerns have been provided.

Fire Service: No objection

Housing Strategy: No objection. Housing Strategy fully support this application which is in the SRF Moxley masterplan area and has attracted funding from the Housing Corporation to deliver the scheme.

Environment Agency: No objection

Representations

Moxley Project Reference Group are supportive of the application as they are keen to see development in Moxley which caters for an identifiable need on a prominent site within the area. They would like to ensure that any Section 106 money generated by the development is spent in Moxley. They express concern about the carriageway width of Thorneycroft Place and the lack of visitor parking within the site which might lead to on-street parking. they suggest the possibility of either increasing the width of Thorneycroft Place or utilising the open space opposite the site for parking.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- principle of the use
- design
- access and parking
- amenity
- urban open space

Observations

Principle of the use

The surrounding area is wholly residential and the site has been previously used for this purpose.

Design

The proposed development is appropriate to the area in terms of its scale and relationship to adjoining buildings. The plot sizes and building lines reflect those of the surrounding development. The appearance and materials for the development would be traditional but would also incorporate features such as solar panels for water heating.

The scheme would provide housing types which reflect the needs of the immediate area.

Amenity

Pollution Control has recommended conditions to ensure that any contaminated land issues are identified and treated and that noise from construction work is minimised.

The proposed development would meet Council standards with regard to facing habitable room windows and rear garden lengths/areas. It would have no adverse effect on adjoining neighbours and would improve the amenity of the area by bringing the site back into use.

Urban Open Space

This application requires a contribution of £13,860 towards the provision or improvement of urban open space. The applicant has been invited to enter into a planning obligation to secure this money. Any response will be reported to the meeting.

Moxley Project reference Group wishes to see the contribution used within the Moxley area however the Supplementary planning Document for urban Open Space indicates that contributions will be used proportionally , ranging from borough to local areas. Choices on spending are made by Greenspaces, with up to 80% being spent locally or within the LNP area.

Conclusion

This is a well thought out scheme which would meet the housing needs of the area and maintain and improve its character and visual amenity.

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. No development shall be carried out until a schedule of facing materials for the dwellings and surfacing materials for the paths and block paved areas has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials and the car parking spaces shall thereafter be retained and used for no other purpose.

Reason: To ensure the satisfactory appearance and functioning of the site.

3. A report setting out proposed remedial measures to deal with identified and potential hazards arising from gas and/or land contamination shall be submitted to the Local Planning Authority and agreed in writing before construction of the development commences.

Reason: To ensure the satisfactory functioning of the site.

4. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. The agreed remedial measures shall be implemented in accordance with the agreed timetable.

Reason: To ensure the satisfactory functioning of the site.

5. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

6. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted;
- (d) any damage to protective fences shall be made good.

Reason: To ensure the satisfactory appearance of the development.

7. Unless otherwise agreed in writing with the Local Planning Authority, 2.1m high hooped top gates to match the proposed railings in design and appearance shall be erected across the access drive to the flats in line with the fencing shown on drawing no.1693/008/03 before the development is brought into use. The gates shall be automatic opening.

Reason: In the interests of the security of future occupiers of the flats.

8. The development shall be occupied by persons aged over 60 only.

Reason: The application has been considered on the basis that the development will be occupied by elderly persons and the car parking requirement has been reduced on this account.

9. No construction or engineering works, (including land reclamation, stabilisation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday (Bank and Public Holidays for this purpose shall be Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: In the interests of the amenity of adjacent occupiers.

10. All plant and machinery in use shall be maintained and silenced in accordance with the manufacturer's or supplier's instructions or recommendations. Mobile and portable air compressors , pumps and electricity generating sets shall be of a recognized proprietary low-noise design, and wherever practicable, mains electricity shall be utilized in preference to electricity generating sets.

Reason: In the interests of the amenity of adjacent occupiers.

11. Unless otherwise agreed in writing by the Local Planning Authority the development shall be carried out in accordance with the drawing nos. 1693/008/03; 1693/300/01 and 1693/400/00.

Reason: To ensure the satisfactory appearance and functioning of the development.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.6, ENV32, H3, H5, H9, H10, T7, T13, 8.7, and LC1 of Walsall's Unitary Development Plan and Supplementary Planning Documents on Urban Design and Urban Open Space, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.



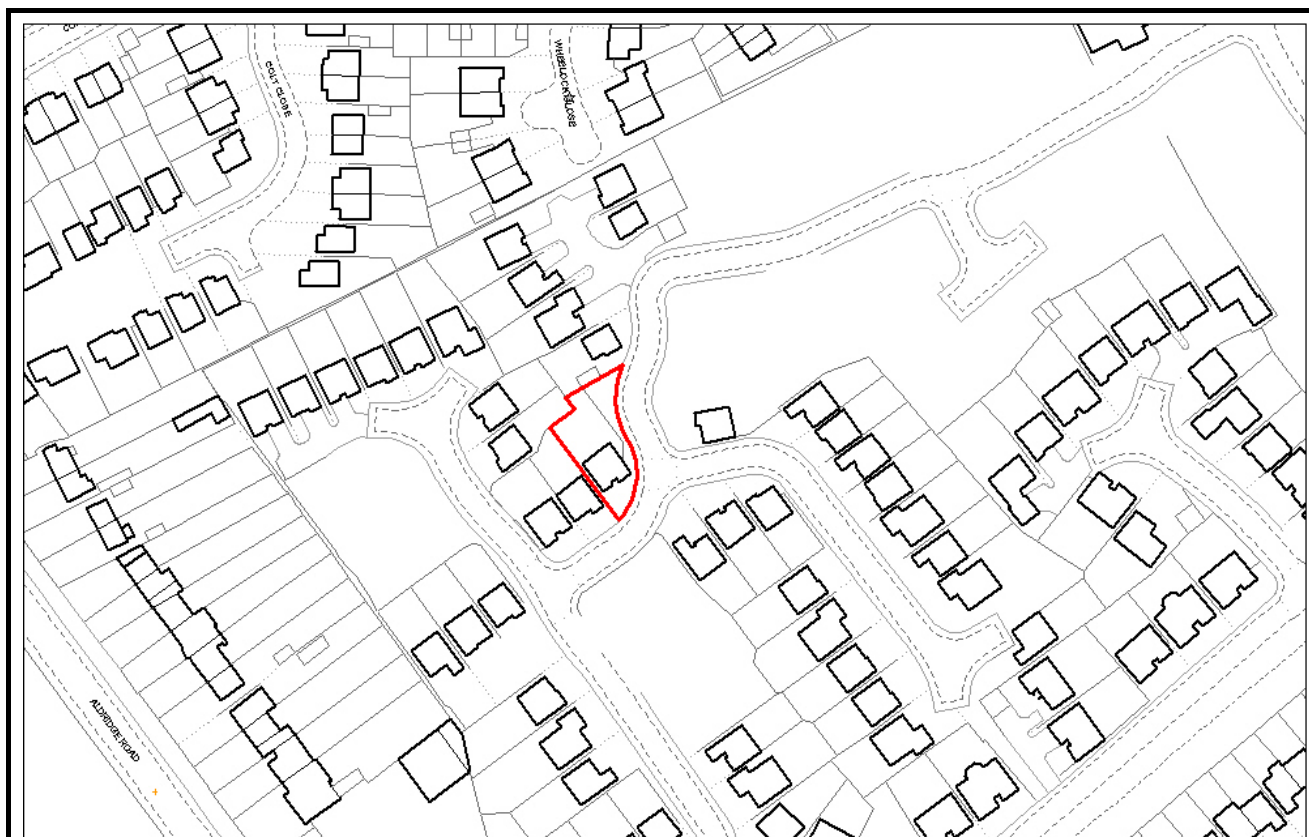
To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 08/0048/FL
Application Type: Full application
Applicant: Mr Nigel Vaughan
Proposal: Change Existing Garage to Room, and Construct Single Garage with Pavement Crossing
Ward: Streetly
Recommendation Summary: Grant Subject to conditions

Case Officer: Jenny Townsend
Telephone Number: 01922 652485
Agent: Malcolm Watt
Location: 19 BLUE CEDAR DRIVE, STREETLY, SUTTON COLDFIELD, B74 2AE
Expired: 02/04/2008



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Application and Site Details

This application is for a new detached garage and the conversion of the existing integral garage. This is a modern detached house that lies on a corner plot on a recently completed estate.

The new garage is to lie at the end of the rear garden adjacent to a similar garage to the neighbouring house number 21. Number 21 lies to the north of the application property but is at a higher level. The rear gardens of numbers 19 and 21 slope down away from the road. Number 21 lies at right angles to the road. The front of 21 would face across the driveway in front of the proposed garage.

The rear of the proposed garage would lie at the end of the rear garden of 2 Catalpa Grove. Number 2 would lie to the south-west and would be lower than the site of the proposed garage.

The submitted plans have been amended to provide an adequate driveway length in front and to clarify the height of the proposed garage in relation to the existing garage at number 21. The floor of the garage is to be 0.5 metres below that of number 21.

The door to the existing integral garage is to be replaced with a window, and the garage converted to a habitable room.

Relevant Planning History

Conditions of the planning permission for the estate development remove permitted development rights for detached buildings, extensions and garage conversions.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have

an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV10: Pollution.

Development will not be permitted if the health or safety of its occupants would be unacceptably affected by pollution.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

Designing a Better Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

These guidelines include separation distances between habitable room windows and blank walls.

Consultations

Transportation Team – No objection to the amended plans subject to the proposed access being constructed to a suitable specification and the existing access being closed.

Pollution Control Contaminated Land Team – No objection subject to the applicant being able to demonstrate that the site remedial systems will not be compromised and suitable measures to protect the proposed structure can be achieved. Conditions to address these concerns have been recommended.

Public Participation Response

Representations from and on behalf of the occupiers of 21 Blue Cedar Drive and 2 Catalpa Grove were received in respect of the original plans objecting on the grounds of:

- Height of garage will cause overshadowing and loss of sun/daylight to adjoining rear gardens;
- Loss of outlook;
- Loss of privacy, and increase in noise and disturbance;
- Safety risk from additional traffic;
- Loss of trees, shrubs and planting;
- Proposed driveway will restrict access to cars parked on the existing driveway at 21;
- A private property sign has been erected on the land in breach of the terms of the lease;
- Fire risk due to proximity of proposed garage to existing one.
- Proposal will add to existing rainwater drainage problems.

Following notification of the amended plans, further representations have been received from and on behalf of the occupiers of 21 Blue Cedar Drive, and 2 and 4 Catalpa Grove, repeating the earlier concerns and also raising the following issues:

- Because of the ground conditions on the estate, the foundations of the garage would need to be attached to an existing structure;
- Covenants imposed by the developers of the estate restrict any building works;
- The plans show the door of the garage at 21 to be off-set when in fact it is central.

The representations may be viewed on the application file in Planning Services.

Determining Issues

- Design and impact on the character of the area;
- Impact on the amenities of nearby residents;
- Parking and highway safety.

Observations

Design and impact on the character of the area

The design of the garage would be similar to that of the detached garage belonging to number 21, although the pitch of the roof would be slightly shallower.

The estate comprises a mix of house types in an informal layout with numerous differences in levels. Because of this, the position and height of the garage would have no impact on the character of the area.

Impact on the amenities of nearby residents

The garage would be separated from the house itself at 21 and the main part of the rear garden of number 21 by the neighbours' garage. Although the garage would lie to the south of number 21 and would be up to 4.5 metres high in relation to the adjoining part of the rear garden to 21, it would not be directly faced by the main windows in number 21. Number 21 currently has a shed to the rear of their garage next to the boundary. The impact on 21 would therefore be acceptable.

The front of number 21 faces down the road so is already faced by vehicles heading north on the road. The level of vehicle movements associated with a single domestic garage is unlikely to cause significant additional disturbance.

The slab level of the garage would be approximately 1.5 metres above the ground floor of 2 Catalpa Grove and 0.5 metres above that of 4 Catalpa Grove. This means that the eaves height would be 4.0 and 3.0 metres respectively measured from these two houses. However, the garage would lie to the east and north-east of these houses. The separation distance from number 2, the house most directly in line, would, at 15 metres, exceed the minimum of 13 metres to blank walls over 3 metres high that is referred to in policy. This orientation and the separation distance would avoid any overbearing impact on these houses.

The existing integral garage is set back from the front of number 17 Blue Cedar Drive, and the new window and conversion to a habitable room would have no impact on the amenity of the occupiers of 17.

With respect to the other concerns of the neighbours, there is no requirement in planning policy to retain or protect views. The new garage and driveway would result in the loss of a small area of lawn, and recently planted shrubs and a tree, but there is space to provide replacement planting to the side of

the remaining rear garden of the application house. Any possible impact on access to the driveway at number 21, and possible breaches of the terms of leases or covenants, are private legal matters.

Fire risk would be a matter for the Building Regulations. However, because of the small size and the fact that the proposed garage is to be constructed in brick and tile to match the existing garage, any additional fire risk would be minimal and under national legislation the garage would be exempt from the need for approval under the Regulations.

The proposed garage and driveway would only occupy a small proportion of the garden of the application property so would not significantly increase the existing water run-off from the site. Conditions are recommended to address the ground conditions as requested by Pollution Control.

Parking and Highway Safety

The size of the garage and driveway in front as shown on the amended plans would meet policy requirements.

The formation of an excessive number of vehicle accesses and associated dropped kerbs would impact on pedestrian and highway safety. However, in this case the proposed new access would lie well away from the existing access to the application property and a long section of footpath would remain between the two.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. No development shall be carried out until details of ground gas ingress protection measures have been submitted to and agreed in writing by the local planning authority, and the applicant has demonstrated to the satisfaction of the authority that any ground gas protection measures incorporated into the existing house or the adjoining dwellings are not compromised. The measures shall be incorporated into the development before it is first occupied and shall be thereafter retained.

Reason: To safeguard the occupiers of the application and adjoining premises and to comply with policy ENV10 of Walsall's Unitary Development Plan.

3: The walls and roof of the garage shall comprise facing materials that match those which are used in the existing house as it exists at the time of this application, and shall be retained as such after completion of the extension, unless otherwise previously agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

4: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

5: The proposed garage shall only be used for purposes incidental to the enjoyment of the existing dwellinghouse as such.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.

8: This permission relates to the amended drawing numbered MCJ/08/4/1 Rev D. deposited on 28 March 2008.

Reason: To define the permission.

Summary of reasons for granting planning permission and the policies which are relevant to the decision

The proposed development is considered to comply with Walsall's Unitary Development Plan, in particular policies GP2, ENV10, ENV32, H10, T7 and T13, and the Supplementary Planning Document "Designing a Better Walsall", and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can also be viewed on the Council's web site at www.walsall.gov.uk



ITEM NO: 9.

To: DEVELOPMENT CONTROL
COMMITTEE

Report of Head of Planning
and Building Control,
Regeneration
On 29 May 2008

**REASON FOR BRINGING TO COMMITTEE: Called in by Councillor
Hughes**

Application Number: 07/2577/FL/H4
Application Type: Full application

Applicant: Mr J Mitchell
Proposal: Extension to Existing
Dwelling, to provide new elderly
persons accommodation.

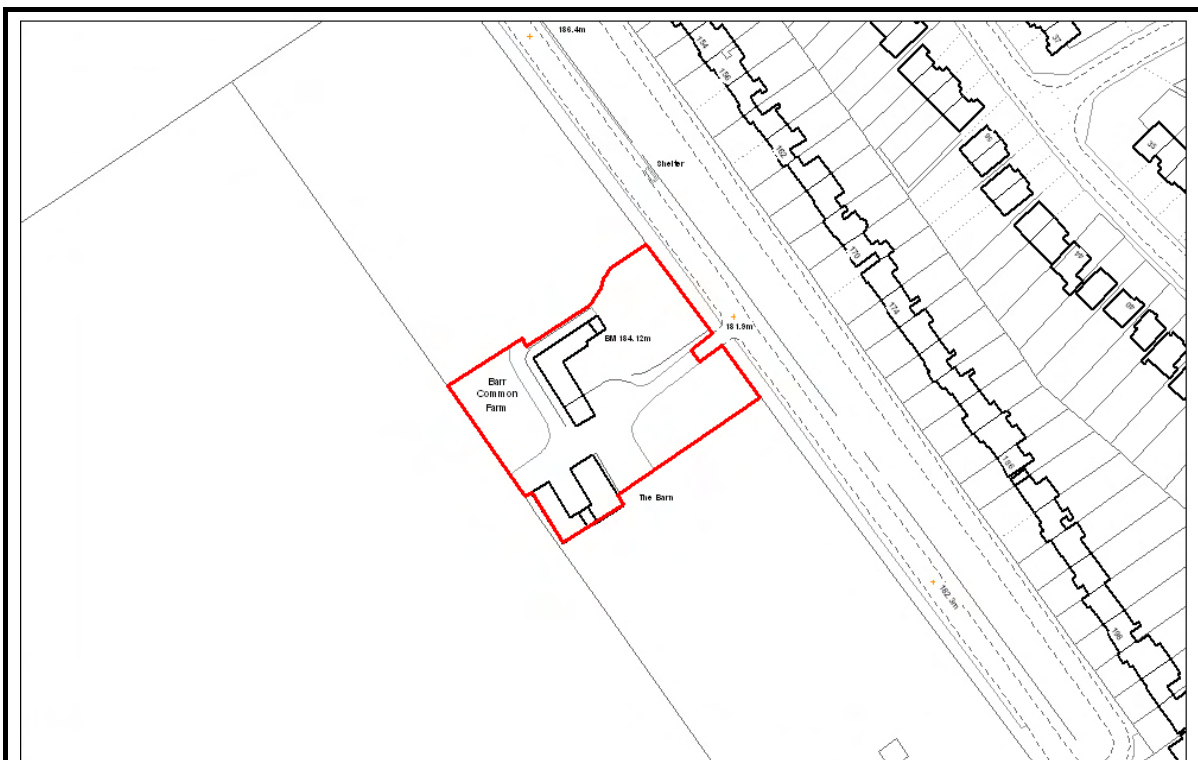
Ward: Streetly

Recommendation Summary: Refuse

Case Officer: Jenny Townsend
Telephone Number: 01922
652485

Agent: Spooner Architects
Location: Barr Common
Farm, Aldridge Road, Streetly, Sutton
Coldfield, West Midlands, B74 3TR

Expired: 21/04/2008



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Introduction

This application has been called in by Councillor Hughes on the grounds that concerns have been raised by nearby residents opposed to the development, and he wishes the Committee to consider whether the proposed development could constitute inappropriate development within the Green Belt and could be detrimental to the openness of the area.

Application and Site Details

This application is for an extension to a detached house to provide living accommodation for elderly relatives. The extension would comprise a living room, bedroom with en-suite bathroom, and a further bathroom. The annex would have its own separate entrance door but there would be a corridor connecting with the main dwelling. The total number of bedrooms in the building would increase from two to five, as a store in the existing building is to be converted to a bedroom.

The extension, which is to be L-shaped with the two arms each measuring approximately 10 metres in length, is to lie at the Aldridge Road end of the building in place of the existing conservatory. The extension is to be single-storey with a gable roof to match the existing building.

The application property lies on an isolated site in the Great Barr Conservation Area and Green Belt. There are fields to either side and to the rear.

Relevant Planning History

The current dwelling was formed by converting barns, a pig sty and store following a planning permission granted in 1985 (BC14937P). Conditions of the permission required the original farmhouse, which occupied the site of the current proposed extension, to be demolished within 3 months and removed permitted development rights for further extensions.

Determinations were made in 1988 and 1989 under the former Section 53 that planning permission was not required for the erection of a chalet, swimming pool and conservatory (applications BC22790P and BC26535P).

BC39160P. Conversion of outbuildings into overnight guest accommodation including installation of new windows and archway boarding, widening of vehicular access and provision of 12 parking spaces & septic tank. Refused November 1993, DoE appeal dismissed May 1994. The inspector concluded that the development was inappropriate in the Green Belt and would harm the character and appearance of the Regional Park.

BC45839P. Construction of vehicular access with bell mouth onto classified road. Granted subject to conditions April 1996.

BC54081P/C. Change of use of outbuildings to a Class 3 dwellinghouse together with minor alterations to external elevations and provision of a septic tank. Granted on appeal June 1998.

The inspector concluded that the outbuildings had been erected in 1987 using permitted development rights for agricultural buildings. In order to maintain the openness and preserve the character of the area he imposed conditions on the permission which withdraw permitted development rights to extend or erect small buildings at the site. Another condition states that there shall be no alterations to the garage which would prevent its use as a garage without the prior approval of the local planning authority.

02/2124/FL/H4. Detached Garage. Refused 23rd December 2002 on the grounds that the garage would be an unduly large and prominent feature and amount to a disproportionate addition to the size of the original dwelling, which would harm the openness and character of the Green Belt.

That proposal was for a garage 9.5 metres wide and 6.4 metres long, with a pitched roof 2.3 metres high to the eaves and 5 metres to the ridge.

03/0297/FL/H1. Detached single-storey garage. Withdrawn April 2003 (but recommended for refusal on green belt grounds).

04/2559/FL/H1 Detached single storey double garage. Granted subject to Conditions January 2005.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV2: Control of Development in the Green Belt.

Limited extension or alteration of an existing dwelling in the Green Belt will be allowed provided that this will not result in disproportionate additions. The

Council will require that the siting, design, form, scale and appearance is consistent with the character of the surrounding area.

ENV29: Conservation Areas.

The Council will determine whether a development preserves or enhances the character of a conservation area in terms of:

- I The degree of loss or alteration to property which makes a positive contribution to the character of the area.
- II The impact of any new buildings on the special townscape and landscape features within the area.
- III The scale, massing, siting, layout, design or choice of materials used in any new building or structure.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

- I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.
- (c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

T7 – Car Parking

All development should satisfy the car parking standards set out in Policy T13.

Designing a Better Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

National Planning Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

PLANNING POLICY GUIDANCE NOTE 2

Paragraph 3.6 states that provided that it does not result in disproportionate additions over and above the size of the original building, the extension or alteration of dwellings is not inappropriate in Green Belts.

Consultations

Landscape Team – No landscape objection.

Regeneration, Built Environment Team - This site is in the Great Barr Conservation Area. The proposal is for a single storey extension to provide further residential accommodation. However it would seem that the original farm outbuildings on this part of the site have already been converted and extended. Farm buildings should, as far as possible, remain agricultural in character and appearance and, although we are not dealing with listed or locally listed buildings in this location, it seems to me that the proposals represent an unacceptable level of development on this site which would further erode the agricultural character of the site and create a suburban residential feel to the plot. This would create an unwelcome precedent in the area and might encourage further such proposals for residential conversion of outbuildings on nearby farms. The proposed L-shape extension alters the basic plan form of the outbuildings and starts to create another courtyard on the site which starts to threaten the primary importance of the residential block. This application is therefore recommended for refusal.

Public Participation Response

The occupiers of 162 Aldridge Road query the category of the land, whether it is a farm with livestock, or totally residential. They have disapproved of the numerous previous applications for extensions/renovations and other uses.

Representations can be viewed on the application file in Planning Services on publication of this report.

Determining Issues

- whether the design of the extension would be compatible with the existing dwelling;
- the impact on the character of the Conservation Area and whether the extensions would result in disproportionate additions that would impact on the openness of the Green Belt; and
- parking

Observations

Design of Extension

The design of the extension would be compatible with the existing building.

Impact on Character of Conservation Area and Green Belt

The site originally comprised a modest dwelling of a simple form with traditional farm buildings attached in an L-shape and other detached farm structures positioned around the yard. The current dwelling is larger than the one it replaced, but it was formed by re-using the original outbuildings so its creation did not increase the floor area of buildings on the site. The current proposed extension would occupy much of the site of the original dwelling that was demolished following the 1985 permission.

However, the detached buildings that have been added elsewhere on the site, including those which have been converted to a separate dwelling, have more than doubled the original footprint of buildings on the site. The further increase in the floor area of buildings on the site would amount to disproportionate additions compared with the size of the original dwelling, and would harm the openness and character of the Green Belt.

As noted by the conservation officer, the addition of an L-shape extension would start to create a courtyard and would disrupt the simple form of the original farmhouse. This would harm the character of the conservation area.

Parking

If the application was otherwise acceptable, there are two parking areas on the site which already provide plentiful parking to meet the Council's requirements for a house with 4 or more bedrooms.

Recommendation: Refuse

1. The proposed extension, when added to the detached buildings that have been added within the curtilage, would more than double the floor area of the buildings that were originally on the site. This would harm the openness and character of the area. Furthermore, the addition of an L-shape extension would start to create a courtyard and would disrupt the simple form of the original farmhouse. The development would therefore amount to disproportionate additions to the original dwelling, and would harm the openness and character of the Green Belt, and the character of the conservation area. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies ENV2, ENV29 and ENV32.